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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JONATHAN JABREAL ROBINSON, III,

APPELLANT.

APPELLATE CASE NO. 2024-000994

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT #2 (VIDEO) AND STATE’S EXHIBITS #27-30 (PHOTOGRAPHS).**

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF BEAUFORT

4 State of South Carolina,

5 vs. Transcript of Record
6 2022-GS-07-00529,
7 2022-GS-07-00530

8 Jonathan J. Robinson, III,
9 Defendant.

10 June 3, 2024
11 Beaufort, South Carolina
12 Volume I

13 B E F O R E:

14 The HONORABLE CARMEN MULLEN

15 A P P E A R A N C E S:

16
17 Samantha Molina, Assistant Solicitor
18 Rachel De'Angelis, Assistant Solicitor
19 Jacob McFadden, Representing the defendant
20
21

22 SHARON G. HARDOON, CSR
23 Official Circuit Court Reporter, III
24
25

1 THE CLERK: 218, is transferred.

2 THE COURT: Okay.

3 MS. MOLINA: Thank you.

4 THE COURT: Thank you.

5 All right. Ladies and gentlemen, does
6 anyone have any reason they need to speak with me?
7 Because now is the time. After this, I am going
8 to find you qualified and I am going to ask the
9 solicitor office to call their first case where
10 we're going to ask you questions specifically
11 about that case.

12 All right. So, anything? Anyone?

13 Very good. I find this panel qualified.

14 Miss Molina, do you want to go ahead and
15 call this case? Or Mr. Gursky? I'm not sure
16 which of you --

17 MS. MOLINA: Yes, ma'am.

18 The State calls Jonathan Robinson charged
19 under indictment number 2022-GS-07-00529 of armed
20 robbery, and under indictment number
21 2022-GS-07-00530 with possession of a weapon
22 during a violent crime. Thank you.

23 THE COURT: Very good. Thank you.

24 Ladies and gentlemen, if you give me your
25 attention, we are about to begin the trial titled

1 good. I'll see you at 9:30. Thank you.

2 (Jury exits the courtroom at 11:59 a.m.)

3 THE COURT: Let's start back at two
4 o'clock.

5 (A break was taken from 12:50 to 2:00 p.m.)

6 THE BAILIFF: All rise.

7 THE COURT: All right. What are we going
8 to start with?

9 MR. MCFADDEN: I'm happy to lead off,
10 Judge.

11 THE COURT: Please.

12 MR. MCFADDEN: I'll just go down --
13 straight down my list.

14 THE COURT: Well, let's start with the
15 first motion.

16 MR. MCFADDEN: First is a motion to
17 suppress evidence obtained through the law
18 enforcement's use of facial recognition software.

19 If Your Honor has a copy of the incident
20 report --

21 THE COURT: Yes.

22 MR. MCFADDEN: -- in there, that is how
23 law enforcement obtained Mr. Robinson's name in
24 this case. Specifically, the alleged victim
25 communicated, transacted with this person through

1 Facebook Marketplace under the profile name delta
2 moniker, and he arranged this deal, and that's
3 when the alleged robbery occurs. And then,
4 ultimately, the alleged victim was able to provide
5 a physical description, but then also just that
6 profile. I guess the profile page or the link of
7 the person who he communicated with.

8 THE COURT: I'm sorry. This was Facebook
9 you said?

10 MR. MCFADDEN: Yes, ma'am.

11 THE COURT: Okay, keep going.

12 MR. MCFADDEN: Yes, ma'am.

13 And so law enforcement follows that link
14 here, and there is a Facebook profile page under
15 the name of quitbitinpullup, that's the way
16 someone's name would go, just with that nickname
17 or moniker there. It has a picture here, a
18 profile picture which is a close-up of a person's
19 face.

20 THE COURT: Okay.

21 MR. MCFADDEN: Law enforcement then takes
22 that image, I think it's Investigator Byrd with
23 the sheriff's office, and uses SLED's facial
24 recognition software which, in turn, produces a
25 hit, so to speak, which is just another picture

1 matching the picture which is a mug shot of
2 Mr. Robinson.

3 THE COURT: Can I ask a quick question?

4 MR. MCFADDEN: Yes.

5 THE COURT: So I didn't realize, but does
6 SLED now have, from booking photos, what I would
7 call like a CODIS hit, but now, I guess, it's a
8 facial?

9 Is it called something specific? Miss
10 Molina, do you know what it's called?

11 MS. MOLINA: Yes. It's like CODIS. It's
12 their facial recognition software.

13 THE COURT: Okay.

14 MS. MOLINA: They collect mugshots
15 from -- you can opt in. Like the different
16 detention centers opt in.

17 THE COURT: Okay.

18 MS. MOLINA: Also, they get DMV pictures.
19 So it's my understand and belief it's the most
20 recent picture that pops up in that information.

21 THE COURT: Okay.

22 MS. MOLINA: But it's essentially the
23 CODIS database of pictures.

24 THE COURT: Okay. And do other law
25 enforcement agencies use it or just SLED? I know

1 they forward it from here to SLED. Is that what
2 you're saying? Am I correct on that or no?

3 MR. MCFADDEN: So it's SLED's.

4 THE COURT: It's SLED's system.

5 MS. MOLINA: It's SLED's system.

6 THE COURT: Okay.

7 MS. MOLINA: And then users like
8 Investigator Byrd can be qualified to use this
9 system.

10 THE COURT: Okay.

11 MS. MOLINA: And it's for limited
12 purposes and they have to -- you know, why they
13 were using it.

14 THE COURT: Okay.

15 MS. MOLINA: It's not like anybody can
16 just look it up and put stuff in.

17 THE COURT: Okay.

18 MR. MCFADDEN: So once Investigator Byrd
19 gets that hit, obviously he can then do a manual
20 comparison of the photos. He gets that name and
21 now we have Jonathan Robinson, and it's, kind of,
22 off to the races. You know, A photo line-up is
23 made. You know, they're able to search him
24 through Spillman.

25 THE COURT: Let me ask you a question.

1 MR. MCFADDEN: Yes.

2 THE COURT: Was there any video on scene
3 at the time of the robbery?

4 MR. MCFADDEN: Yes. Per the discovery,
5 the community center which has surveillance, I
6 think she intends to call IT, someone from the IT
7 department to introduce it that allegedly captured
8 the whole incident.

9 THE COURT: So I understand -- captured
10 the whole incident?

11 MR. MCFADDEN: I think. I would say so.

12 MS. MOLINA: Yes.

13 THE COURT: And just so I understand,
14 whatever this face ID recognition, was it --
15 you're saying that Byrd used the photo from
16 Facebook, like the whatever --

17 MR. MCFADDEN: The profile picture.

18 THE COURT: Right. To do whatever this
19 database is, but he did not use the one from the
20 actual incident scene?

21 MS. MOLINA: No.

22 THE COURT: He just compared it.

23 MS. MOLINA: He used the Facebook profile
24 provided by the victim --

25 THE COURT: Okay.

1 MS. MOLINA: -- to get this picture that
2 they ran through the database that produced his
3 name and date of birth. And I can hand you
4 what --

5 THE COURT: What it looks like. Okay,
6 thank you.

7 MR. MCFADDEN: Show me. I can probably
8 hand up the same thing.

9 MS. MOLINA: What law enforcement made --

10 MR. MCFADDEN: Yes.

11 MS. MOLINA: -- with their results from
12 the facial recognition. And because it's like
13 CODIS, and it says on there it's like an
14 investigative lead, it's not probable cause. I am
15 not trying to introduce that document and those
16 pictures into evidence. I would just elicit
17 testimony that they got the Facebook page. It was
18 submitted to BCSO and tell who ran this software,
19 and, from there, they got a name and date of birth
20 that they were able to then do a line-up.

21 THE COURT: Okay.

22 MS. MOLINA: So I'm not introducing that
23 document or those pictures.

24 THE COURT: Okay. Has there been any
25 case law? The only thing that would concern me

1 slightly about that would be the testimony that
2 you ran it through facial recognition and this is
3 who turned up as opposed to just the old-fashioned
4 way. We're looking at the video, obviously, and
5 it looks like so and so. Someone thinks it might
6 be him and then they do a line-up based on that.

7 MS. MOLINA: I mean --

8 THE COURT: I guess my question is: Is
9 there any inherent vouching for it because it's
10 through, like, a facial recognition program versus
11 a -- you know, we eyeball it.

12 MS. MOLINA: The State's position is no,
13 but I can elicit that it was submitted to their
14 intel department and what they got back was this
15 name, birthday, and that information.

16 THE COURT: Okay. I'm just wondering if
17 there's any case law out there on it. I just
18 haven't seen any, and that's why I would just be
19 interested in knowing if there is.

20 MR. MCFADDEN: At least on that specific
21 issue of eliciting testimony in court, or trying
22 to go off of the actual photos from it, I think it
23 fits uniquely under the umbrella of scientific
24 evidence that would require a Counsel hearing.
25 This is very technical stuff.

1 THE COURT: But she's not introducing
2 this.

3 MR. MCFADDEN: No.

4 MS. MOLINA: And it was just a lead to
5 get a name, so that's just -- I mean, I have to
6 explain how they even figured out who it was to
7 put in a line-up.

8 THE COURT: Okay.

9 MS. MOLINA: That's why I would just say
10 they submitted the Facebook page to the intel
11 department, got a name, and it was confirmed by
12 the victim. Because otherwise --

13 THE COURT: I guess you have to be
14 careful when you say "confirmed by the victim,"
15 because you would say there was photo line-up.

16 MS. MOLINA: Yes.

17 THE COURT: There was a six-pack that --
18 I'm assuming they didn't turn around and say that
19 the victim said, *It's him*. They didn't do that.

20 MS. MOLINA: Right. I was using loose
21 language with the line-up and confirmed.

22 THE COURT: Right.

23 MS. MOLINA: That's how they got the name
24 to be able to even place him in a line-up --

25 THE COURT: Got it.

1 MS. MOLINA: -- for the victim to choose
2 or not choose.

3 THE COURT: Okay. So you're not going to
4 introduce those.

5 All right. So what else do we need to do
6 then?

7 MR. MCFADDEN: So my motion is more
8 brought, and I'll go through it quickly, because
9 -- to Your Honor's question about case law, there
10 is very scant case law on facial recognition.
11 None that I could find that's helpful.

12 So my basic position is that law
13 enforcement's use of the facial recognition
14 technology in this case is -- is cognizable under
15 the Fourth Amendment it implicates the Fourth
16 Amendment them reaching out to his Facebook
17 profile here, for the purpose of this hearing, and
18 grabbing that image and putting it into the facial
19 recognition software is the same as if they had
20 grabbed him off the street and fingerprinted him.
21 Because what the facial recognition software does
22 is -- well, it creates just that, a face print.

23 So a data set of measurements. I think
24 they call it a biometric algorithm. Essentially,
25 it's able to create a unique signature or any

1 unique profile, a digital representation of
2 someone's face that can be compared against a vast
3 database of others.

4 So, in that instant, they are able to --
5 they're not just grabbing his photo that he put up
6 on Facebook because he hasn't shared it with a
7 third party. They're taking another step further
8 there, which we think, you know, triggers his
9 protections under the Fourth Amendment and should
10 be properly considered a search or a seizure here.

11 That's part one of my motion. I do have
12 a case. It's the United States Supreme Court --
13 just a moment -- *Davis vs. Mississippi*. It's 889
14 Supreme Court, 1394. It's from 1969. I'll pass
15 up a copy. But it is a case that presents just
16 that factual scenario I mentioned. The law
17 enforcement -- there's a crime that's committed,
18 they have fingerprints on the scene, they have a
19 general idea of the type, maybe, that they might
20 be looking for, but they just go out and grab
21 people and fingerprint them without any sort of
22 reasonable suspicion or warrant here.

23 So, again, admittedly, the case law is
24 very scant, but we do think that that should
25 apply, and that law enforcement should be required

1 to make sort of articular suspicion before
2 something like that can be admitted. So that's
3 part one.

4 Part two of my motion is that, even --
5 you know, even if they had reasonable suspicion
6 to, you know, take a face print of that profile
7 picture as being someone they thought was involved
8 in armed robbery, that the hit here that they got
9 is that mugshot that they see. I think
10 Investigator Byrd put that together, if I'm not
11 mistaken. There's no information other than --
12 about that mugshot other than his name and his
13 date of birth.

14 So there's no indication of, you know,
15 what arrest that was for, whether that charge --
16 what happened with that charge, whether it's been
17 dismissed, or otherwise.

18 Judge, we had a -- I filed a supplemental
19 discovery motion for information about this facial
20 recognition, and then another issue in this case
21 that I think that law enforcement used called
22 Leads on Line. There's an on-line service that
23 looks at a bunch of consumer transaction.

24 We had a hearing in front of Judge
25 Goldsmith back in April -- the State was

1 represented by Mary Jones -- and agreed on a lot
2 of the information that I was looking for. And,
3 ultimately -- and something asked specifically was
4 -- like for this one, where did that photograph
5 come from? Because I think there should be
6 information associated with it. Because one thing
7 that was turned over was the SLED facial
8 recognition policy here which seems to imply that
9 information associated with the image should be at
10 least available or included with the match, but I
11 guess that's SLED's running it, if not local who
12 is authorized.

13 I'm concerned also that, I don't either
14 side -- I know I don't, and I don't think it's
15 been given to Ms. Molina either. I don't know the
16 exact parameters of what database they're even
17 comparing against here.

18 As Your Honor mentioned, I suspect from
19 the SLED's regulations that it's things from AFIS,
20 some mugshots from AFIS and DMV photos, and then I
21 think it mentioned the FBI database, which, I
22 assume, they're just pulling that information from
23 other states. But we don't have anything from the
24 actual company that runs -- that actually makes
25 this work, which is called DataWorks Plus. That's

1 my understanding. Again, I'm going from the
2 SLED's policies on it. I don't know if those are
3 updated. It appears to be that law enforcement --
4 they didn't make it. SLED didn't make it. They
5 hired this other company.

6 So it's also, kind of, a black box in
7 that regard. We don't have the information of how
8 it works or what pool that they're able to search
9 from. Instantly here, just running any sort of
10 face print through it.

11 So for those reasons, Judge, respectfully
12 we're moving to suppress any evidence that law
13 enforcement collected as a result of that match
14 coming from that on the grounds that that
15 searching, taking that face print from his profile
16 picture constituted a search or seizure which
17 would trigger the Fourth Amendment plus Article 10
18 of our Constitution.

19 THE COURT: Okay.

20 MR. MCFADDEN: Thank you, Judge. I don't
21 have anything else.

22 THE COURT: Thank you.

23 Ms. Molina.

24 MS. MOLINA: To the extent that it
25 implicates the Fourth Amendment, there has to be a

1 reasonable expectation of privacy. I don't think
2 there's a reasonable expectation of privacy in
3 mugshots, and there is not a reasonable
4 expectation of privacy when you publicly post a
5 picture on your Facebook page for everybody to
6 see. Maybe if he had it private and it was just
7 for his friends, but this was his public profile
8 picture.

9 So there's no expectation of privacy in
10 either of those senses to distinguish it from
11 *Mississippi*. But *Davis v. Mississippi*, which I
12 didn't read, but based on what he's saying in
13 fingerprinting people, the officers in that case
14 would have seized these people and make them give
15 the fingerprints.

16 In this case, they were just taking two
17 pictures that were available and comparing them
18 through this software. It is not an unreasonable
19 search to compare two pictures that he has no
20 privacy expectation in either of them.

21 The victim only knew the defendant
22 through this Facebook. He didn't know his real
23 name. Law enforcement didn't know who he was, and
24 so the recognition is the only way that they were
25 able to figure out his name and birthday to be

1 able to then put it in front of the victim in the
2 line up.

3 As to his second point about we don't
4 know the -- like where this mugshot came from,
5 again, it doesn't matter. We don't know where all
6 of the mugshots and line-ups come from, or if
7 they're DMV pictures. There's no expectation of
8 privacy. Certainly, there's many, many, many
9 cases where people have their mugshot taken and
10 then their cases are ultimately disposed of but
11 those pictures are still out there whether the
12 news picks it up or there's a database. So,
13 certainly, there's no expectation of privacy
14 implicating the Fourth Amendment.

15 The State concedes that it was not
16 confirmatory and it was just a lead where further
17 confirmatory testing or a line-up was necessary,
18 and so I'm not introducing that. And the only
19 testimony related to that would be that they got
20 the Facebook profile, they submitted it to their
21 intel unit, and, through facial recognition, got a
22 name and birthday, or were able to get a name and
23 birthday from intel and not even say the facial
24 recognition. But I got to be able to connect the
25 dots of how they figured out from a profile that

1 doesn't include his real name who he was to be
2 able to put him in a line-up at all.

3 THE COURT: Okay. Well, I don't think
4 there is any expectation of privacy in either his
5 Facebook profile nor his mugshot from any previous
6 arrests.

7 I think it would be interesting to know
8 from either SLED, or whoever runs this database,
9 exactly the basis behind it. I just haven't seen
10 it done before, but I don't think that would be
11 interesting to know. I don't think we need it in
12 this case, though.

13 As far as, you know, reasonable suspicion
14 to go any further, an armed robbery occurred.
15 Someone's -- items were stolen. It was all on
16 video, from my understanding, at the Dale
17 Community Center, and I think that is enough to go
18 and develop a suspect. So I don't see it being
19 any different than you would in a normal
20 investigation. So I don't think it matters where
21 the mugshot came from.

22 I would agree that if we can just kind of
23 keep it clean and just say, you know, you took the
24 profile from Facebook, we sent it to intel, and
25 develop a suspect. From there, a six-pack was

1 done. And I'm assuming a six-pack was done in the
2 normal accordance where it wasn't suggested and it
3 wasn't -- you know, all that part was done
4 correctly. And if all that's done correctly, then
5 it's admissible. Right?

6 MS. MOLINA: Right, to get to that next
7 step, which he does have a motion on. But, yes,
8 to get the next step. And that's all I was going
9 to say.

10 THE COURT: Right.

11 MS. MOLINA: It's like CODIS where we
12 have to do the confirmatory anyway.

13 THE COURT: Right. Okay.

14 MR. MCFADDEN: Judge, just for the
15 record, I'm sitting here thinking, just to make it
16 clear, I'd like to add Brady as an additional
17 grounds of that, since I asked for it and we
18 weren't able to get information from DataWorks
19 Plus or from SLED about exactly what the database
20 is and the extra information about the photograph.
21 I would just like to include that as a ground for
22 my motion.

23 THE COURT: Thank you. All right. Noted
24 for the record.

25 What is your next motion?

1 MR. MCFADDEN: My next motion, Judge,
2 is -- it's regarding the other on-line tool, if
3 you will, or digital tool that law enforcement
4 used in this case, which is a service called
5 LeadsOnline.

6 So LeadsOnline, it is a product. It is
7 an on-line tool. It is a service that law
8 enforcement can pay to use to -- here, I'm just,
9 kind of, drawing some information direct from
10 LeadsOnline's website here -- to look at or
11 monitor or collect -- again, I don't have -- we
12 didn't get a lot of information from LeadsOnline
13 even though I had requested and did the motion and
14 had the hearing in front of Judge Goldsmith --
15 LeadsOnline has a service that collects and
16 monitors transaction information, so consumer
17 transaction information, stuff being bought and
18 sold in stores, certain other outlets, from, it
19 says, over 22,000 businesses. You know that type
20 of information as to what was sold, who sold it,
21 other details of each transaction. And using that
22 service, this is per the website, law enforcement
23 can instantly search across 1.7 billion
24 transactions.

25 THE COURT: So what did they get off of

1 LeadsOnline? What in this case?

2 MR. MCFADDEN: Sure, Judge, I can tell
3 you.

4 In this case, the alleged victim, correct
5 me if I'm wrong --

6 MS. MOLINA: I think she needs a copy.

7 MR. MCFADDEN: Certainly.

8 MS. MOLINA: This is the ticket for what
9 the LeadsOnline would look like to law
10 enforcement.

11 MR. MCFADDEN: The alleged victim, it had
12 his -- the allegations are that he had his phone
13 taken as well, so he was able -- I assume the
14 alleged victim was somehow able to locate his
15 serial number, IMEI, one of those unique
16 identifying numbers from this device, give that to
17 law enforcement. They jump onto LeadsOnline plug
18 that in, and a hit is returned for that device
19 having been sold, I guess you could say, to one of
20 those kiosks at Walmart where you can trade in
21 your phone for cash.

22 THE COURT: This is after this robbery?

23 MR. MCFADDEN: Yes, yes.

24 THE COURT: And what I see, it says the
25 date of transaction as being 3/19/2022. What was

1 the day of this incident?

2 MS. MOLINA: The date of the incident is
3 March 19th.

4 So, the phone was entered into NCIC --

5 THE COURT: Okay.

6 MS. MOLINA: -- on March 19th, I
7 believe.

8 THE COURT: Okay.

9 MS. MOLINA: And then -- as stolen
10 property. The way that -- law enforcement, if
11 anything is stolen, they put it into NCIC.

12 THE COURT: Okay.

13 MS. MOLINA: LeadsOnline is another
14 database that private businesses can opt into and
15 upload items that they get like pawn shops or this
16 ecoATM machine where they upload their
17 transactions so that it cross checks with NCIC.

18 THE COURT: To make sure they're not
19 stolen goods?

20 MS. MOLINA: To make sure they're not
21 stolen.

22 THE COURT: Okay.

23 MS. MOLINA: And so because it was in
24 NCIC already and ecoATM uploaded it, Leads is the
25 one that just registered the hit, much like the

1 facial recognition or CODIS, it just connects
2 ecoATM and BCSO so that they could do confirmatory
3 work.

4 THE COURT: So you say this phone was
5 turned in at a Walmart for cash --

6 MS. MOLINA: Yes.

7 THE COURT: -- is that -- or for money?

8 MS. MOLINA: To the ecoATM machine.

9 THE COURT: And you got tell me what an
10 ecoATM machine is.

11 MS. MOLINA: I just learned about it in
12 this case, too. There are these kiosks in
13 Walmart.

14 THE COURT: Okay.

15 MS. MOLINA: And they're bright green,
16 and you can sell your phone to them and it records
17 the transaction, it pays you, and then they take
18 the phones and resell them. But it takes
19 pictures, it scans your license, it takes pictures
20 of the phone, it has the serial numbers.

21 So then, once it's got that data collected,
22 they work closely with Leads to cross-check, and law
23 enforcement --

24 THE COURT: Can I ask a question real
25 quickly?

1 MS. MOLINA: Yes.

2 THE COURT: So I see that this
3 transaction occurred, potentially, on 3/24 of 2022
4 at the Beaufort Walmart, so is there a photograph
5 of Mr. Robinson selling this phone or whatever it
6 is on this ecoATM --

7 MS. MOLINA: Yes.

8 THE COURT: -- showing a picture of him,
9 and it's attached to this phone --

10 MS. MOLINA: Yes, ma'am.

11 THE COURT: -- that was taken from the
12 phone in this case.

13 MS. MOLINA: Yes, ma'am. An ecoATM
14 representative will be here for those records.

15 THE COURT: Okay.

16 MS. MOLINA: So LeadsOnline is just,
17 again, the one that says, hey, ecoATM has popped
18 with this phone, you-all have it in NCIC, you-all
19 should talk.

20 THE COURT: How new is all of this? I
21 mean, obviously, it was working in March 24th of
22 2022.

23 MS. MOLINA: Yes.

24 THE COURT: So I can just tell you, I
25 haven't heard of this, but I also, you know, don't

1 go to Walmart.

2 MR. MCFADDEN: Law enforcement has to pay
3 to use the subscription.

4 THE COURT: Oh, okay.

5 MR. MCFADDEN: I have an invoice. She
6 turned over two invoices, which, at least, it goes
7 as far back as July 1st of 2021.

8 THE COURT: Okay.

9 MR. MCFADDEN: There might have been
10 more. I just went back for the past few years.

11 MS. MOLINA: Law enforcement pays for a
12 subscription --

13 THE COURT: Right.

14 MS. MOLINA: -- to LeadsOnline. I don't
15 believe that businesses do.

16 THE COURT: Okay.

17 MR. MCFADDEN: Again, we don't -- I'll
18 just make my Brady motion right now.

19 THE COURT: Sure.

20 MR. MCFADDEN: I asked for all the
21 information about how it works, what the database
22 looks like, you know, how many times my client is
23 in there, or how many times any of us is in there.
24 I mean, if they can search 1.7 billion
25 transactions instantly from thousands of

1 businesses -- their website says, 60 percent of
2 the time your suspect is going to have a footprint
3 of LeadsOnline.

4 So you have law enforcement hiring this
5 service here. I think it's about 10 and 15 thousand.

6 THE COURT: Once again, there's no
7 expectation of privacy because done in public in a
8 Walmart where it says -- I'm assuming this whole
9 thing is being -- this transaction is being
10 recorded. I'm going to assume it says that
11 somewhere on it. Yes?

12 MS. MOLINA: There is an agreement for
13 the terms and conditions, that you're waiving your
14 rights.

15 THE COURT: Okay.

16 MS. MOLINA: That they will collect,
17 store, report all transactional data including
18 fingerprint to law enforcement in order to prevent
19 fraud. You have to accept in order to complete
20 the transaction. It gives you an option to
21 cancel, to change your mind.

22 THE COURT: Okay.

23 MS. MOLINA: There is no expectation of
24 privacy -- in property that you sell to somebody
25 else, which is what happened here.

1 MR. MCFADDEN: And, Judge, unless -- we
2 have all the information about that, about the
3 ecoATM transaction, that he did all the things,
4 put his license -- allegedly put his license in
5 there and did whatever. I'm less concerned about
6 that.

7 My concern here and what I think the
8 problem is, this service, LeadsOnline, acting as
9 an agent of law enforcement grabbing enormous,
10 vast amounts of data with no oversight at all
11 here. No legal framework applying to it.

12 And so I'm concerned the person, the entity
13 that's doing the searching --

14 THE COURT: After the fourth one.

15 MR. MCFADDEN: -- is LeadsOnline here.

16 THE COURT: Okay.

17 MR. MCFADDEN: Not what's happened here
18 at this one ecoATM. And we don't have --
19 LeadsOnline just didn't turn any of that over, I
20 don't think. I have it.

21 I submit that, you know, with this vast
22 amount of information what's kind of triggered
23 here, again, is a Fourth Amendment issue in the
24 same vain of *Carpenter vs. The United States*.
25 That was law enforcement getting cell cite data

1 from towers tracking somebody for 127 days. These
2 are United State Supreme Court cases. Well, we
3 all know *United States vs. Jones*. That was law
4 enforcement putting a tracker in somebody's car,
5 watching it for 28 days. And then finally -- just
6 in like the massive volume of information that
7 this could potentially -- a search through
8 LeadsOnline could reveal about one person. I also
9 mention *Riley vs. California*, which held that law
10 enforcement can't search somebody's phone based on
11 intent to arrest. They need a warrant.

12 THE COURT: Well, I guess my question is:
13 What they're putting in there to find --
14 LeadsOnline is putting in there a phone number or
15 whatever the identifier, whether or not it's the
16 IP address or whatever it is to the phone, so it's
17 identifying the phone. It's not going to identify
18 a person. I think, again, there's no expectation
19 of privacy when you are freely selling a phone.
20 So I don't see whether there is -- I don't see
21 where there's a Fourth Amendment problem.

22 MR. MCFADDEN: And part -- I don't know
23 what law enforcement can search. I would assume
24 the same way they can search a serial number, they
25 can search a name as a seller, buyer, and, you

1 know, see any vender anywhere of these 22,000
2 places where they might have done something. So
3 altogether, at a glance, you could see a few
4 slices into somebody's personal life as a
5 consumer.

6 THE COURT: But the expectation of
7 privacy, it's not the person you're looking at.
8 You're looking at the actual device. It's the
9 phone that you're going after. And once they've
10 sold it, or gave it away, they're waiving all
11 their rights to it. So, again, it's not tracking
12 a person. It's tracking a device that they're
13 freely giving away.

14 MS. MOLINA: And even if it -- you're
15 saying that you want to search and find out every
16 transaction that is done with somebody that
17 reports to LeadsOnline. It's a private company,
18 not an agent of law enforcement. And law
19 enforcement, in this case, did not do a search for
20 his name. They did the NCIC.

21 THE COURT: They're looking for the
22 device.

23 MS. MOLINA: Right. And then lead --
24 it's on an investigative lead, said this company
25 said that they bought this device, might match

1 your serial number on the NCIC, you-all should get
2 together essentially, because when I talked to the
3 ecoATM guy, he says that, you know, typically in
4 these cases, I said, What happens with a stolen
5 phone? Do you guys reach out? Do they reach out?
6 He said, law enforcement reaches out and, if they
7 don't, they'll get in contact. But it's not --
8 The only thing that Leads does is connect people.
9 It's private database. And if there is no stolen
10 device, it doesn't pop up and give a lead.

11 MR. MCFADDEN: I don't have anything
12 showing me this. We don't have anything from
13 Leads owner, I don't think. Anything intangible
14 showing how it works, what it's looking for.

15 I guess my point is, back to ecoATM, less
16 about, you know, the law enforcement searching to
17 report a stolen cell phone, but rather that the
18 damage can already be done if this service that
19 has already collected these enormous amounts of
20 data that could include my client being in there,
21 you know, 50, 100 times for different transactions
22 in different places. And so that, kind of --
23 that's revealing a whole bunch of private
24 information about him. Or, at least even if
25 individual ones were not private, individual

1 incidents of him by himself, that, as a whole, he
2 would certainly have a reasonable expectation of
3 privacy.

4 THE COURT: How is this a Fourth
5 Amendment problem? Because it's following the
6 device. It's not following the man, or the actual
7 named defendant, or a person.

8 MR. MCFADDEN: The sheriff's office in
9 this case did that. But LeadsOnline, they are a
10 separate actor here, and that's who I'm saying is
11 doing the searching. Or has already done it and
12 is just advertising to law enforcement, *Folks*, we
13 *have as much data as you could possibly ever hope*
14 *to search for thousands and thousands, over a*
15 *billion documented transactions.*

16 So if you got a person, you know, that
17 you think might have done some suspicious buying
18 or selling put in their name. This will show you
19 anywhere that they've bought or sold something
20 and however many vendors. That is the -- that's
21 the crux of why we are here.

22 THE COURT: I don't think you can
23 identify based under a name, though. It would
24 have to be under a device.

25 MS. MOLINA: And we did provide the

1 LeadsOnline privacy statement which does contain
2 information about -- it operates and maintains an
3 electronic reporting and criminal investigation
4 system for receiving data by law enforcement and
5 their duties. So we didn't get their trade
6 secrets and how they run the business. They're
7 not our agent, but they also -- it was really hard
8 to get in touch with the people from Leads, so the
9 privacy statement was what we could get.

10 THE COURT: Okay.

11 MS. MOLINA: And I think that
12 sufficiently covers his questions because anything
13 else didn't happen in this case. He doesn't have
14 a privacy interest in it. And I'm not sure
15 knowing all of his transactions -- because he
16 could have done a thousand transactions with his
17 own stuff at pawn shops or these ecoATM kiosks
18 that were not stolen items. And so it would show
19 that he sold a thousand things that were his and
20 then one that wasn't his. I mean, he's not
21 charged with selling a bunch of other stuff. It's
22 just this -- the phone from this one
23 armed-robbery.

24 THE COURT: All right. Well, I
25 understand that you're making it based on a Brady

1 motion. I understand as a Fourth Amendment and
2 also a Brady motion.

3 MR. MCFADDEN: Yes, ma'am.

4 THE COURT: But I'm going to deny both
5 your motions.

6 What's the next one?

7 MR. MCFADDEN: Thank you, Judge.

8 The next motion has to deal with evidence
9 law enforcement obtained in this case through a
10 search of a residence at ■ Wimbee Trailer Court.
11 Law enforcement did get a warrant. I have a copy
12 of that warrant. My motion is pretty
13 straightforward that -- I allege that there's not
14 probable discuss to support -- to support that
15 that warrant did that for two grounds here.

16 Number 1, the robbery is alleged to have
17 happened on March 19, 2022. Law enforcement, I
18 don't believe, sought that warrant until March
19 28th, and the -- I don't believe -- I'm arguing
20 that the affidavit doesn't set out sufficient
21 probable cause to support the fact that it would
22 be --

23 THE COURT: There would be evidence of a
24 crime seven days later.

25 MR. MCFADDEN: Yes.

1 And then, secondly, in terms of why they
2 want that address and why they think, you know,
3 it's associated with him, the only mention in this
4 affidavit is that this was his listed address.
5 But without any kind of information about listed
6 how or where is on his driver's license.

7 THE COURT: Can I see the warrant and the
8 return, please?

9 MR. MCFADDEN: Of course. This does have
10 the return on it on the last page.

11 THE COURT: Thank you.

12 All right. So tell me how you think it's
13 deficient.

14 MR. MCFADDEN: First that it alleges in
15 3/19/22, they didn't seek that until 3/28. I
16 didn't see anything in that affidavit saying why
17 law enforcement thought that evidence will still
18 be there nine days after the robbery.

19 THE COURT: I will tell you, this is a
20 pretty detailed warrant, in my opinion. But keep
21 going.

22 MR. MCFADDEN: 2, is that the only
23 connection mentioned in there between my client
24 and this address is that it is, quote, his listed
25 address?

1 THE COURT: Well, I'm looking at it right
2 here, interestingly enough, it says the Facebook
3 picture matched to a BCDC jail picture of a
4 subject name, so that's where your face
5 recognition mugshot came from was apparently
6 Beaufort County Detention Center from some bond
7 from them. And it just said they compared those
8 photographs as well as -- they also had video
9 surveillance from the Dale Community Center which
10 not only corroborated the victim's account but
11 also -- it says, "The video clearly shows
12 Robinson's body and face, as well as him pointing
13 the gun and taking the items." I mean, that's
14 pretty detailed.

15 And then when they asked for what to
16 take, they said, obviously, "Any clothing that is
17 identifiable or matched the video surveillance at
18 the community center," and then it said the listed
19 stolen items. I see DNA evidence at the bottom of
20 this.

21 So I'm not exactly sure -- and obviously
22 any guns because this is an armed-robbery. And
23 I'm assuming in the video surveillance when it
24 says you can see him -- or someone pointing a gun
25 at the victim, I'm assuming you can see a gun,

1 too.

2 So, anything else?

3 MR. MCFADDEN: Nothing.

4 THE COURT: Okay. I'm going to deny that
5 motion.

6 What's the next one? Motion to suppress
7 statements from defendant to Beaufort Police
8 Departments officers.

9 MR. MCFADDEN: So, Judge, this one
10 speaking about the statements, I believe she only
11 intends to introduce -- well, any statement.
12 Those are the only statements to law enforcement
13 really that would be sought for use, and that she
14 would only be seeking to use those for
15 impeachment.

16 THE COURT: When do they actually catch
17 him?

18 MS. MOLINA: April 4th.

19 THE COURT: Pardon?

20 MS. MOLINA: April 4th, 2022. The
21 incident happened March 19th, 2022.

22 THE COURT: So how did they find him or
23 where did they go to find him?

24 MS. MOLINA: So Beaufort County is
25 investigating the armed-robbery. Beaufort City is

1 called out to the Quality Inn on just another -- I
2 think a domestic disturbance -- an unrelated
3 incident. And, in the course of their
4 investigation, come across a vehicle that the
5 defendant is sitting in. Approach it. Smelled
6 marijuana. Asked for IDs. The car tries to
7 leave, so they get him out and detain him, and
8 then -- trying to figure out who he is. Because
9 the driver of the vehicle, they knew him and he
10 had warrants so they were going to arrest him.

11 Then they were trying to figure out who
12 the defendant was because they were going to allow
13 him to take at guy's car because the guy didn't
14 want it towed.

15 THE COURT: And then that's when I heard
16 him say, *I don't have a driver's license.*

17 MS. MOLINA: Doesn't have a driver's
18 license, and then gave them the fake name, and
19 then they ultimately figured it out. He
20 eventually told them his real name.

21 THE COURT: Okay.

22 MS. MOLINA: So the statements that the
23 State would introduce for impeachment only would,
24 he gave a fake name, birthday, and where he was
25 from.

1 MR. MCFADDEN: Judge, obviously, it's his
2 right. I don't anticipate -- I don't anticipate
3 my client taking the stand or calling my client.
4 So if it is just for that, I didn't know that.

5 THE COURT: Okay. It's only if he takes
6 the stand for impeachment purposes.

7 Okay, thank you.

8 MR. MCFADDEN: Judge, I only have a
9 couple more here. My next one is the line-up here
10 that Ms. Molina intends to introduce. Well, if
11 she intends to introduce the out-of-court photo
12 line-up and then the in-court that has the alleged
13 victim conduct an in-court identification of the
14 defendant, I argue that the in-court
15 identification would be tainted by an improper
16 newly suggested out-of-court identification done
17 by law enforcement based on how they prepared this
18 six-pack line-up here. I have a copy of it
19 here.

20 THE COURT: Okay. Also, I want to make
21 what you-all passed up to me an in-court exhibit.
22 So when we're done with that.

23 MR. MCFADDEN: Thank you, Judge.

24 THE COURT: And also your warrant. So
25 when we have a second, we'll give it to Sharon.

1 Okay? Go ahead and pass up the six-pack, if you
2 would.

3 MR. MCFADDEN: I'll pass up, what I'll
4 represent as 2, the six-pack.

5 THE COURT: He was a hundred percent
6 sure. The victim said he was hundred percent sure
7 when he identified in the six-pack Mr. Robinson.

8 Okay. What is impermissible about the
9 six-pack?

10 MR. MCFADDEN: My issue with it is based
11 on law enforcement documents, reports, that his
12 initial description -- one of his initial
13 descriptions of the suspect here in terms of age
14 is a guy who is, maybe, mid-40's. I submit on
15 that, on this photo line-up, two of those young
16 men, I mean, don't look above 20. Certainly not
17 mid-40's. He also describes him as -- the suspect
18 as chubby, a little chubby, and those are some
19 pretty slender, very slender, at least faces of a
20 lot those gentlemen here. Also, that is a
21 full-color mugshot. I think that's an issue and
22 makes it suggestive, and the bright-orange jail
23 clothes.

24 THE COURT: Well, they all have it
25 though.

1 MR. MCFADDEN: They do, yes, ma'am. But,
2 specifically, however, who he ultimately
3 identifies. Here, it alleges my client is also
4 attired.

5 For those reasons, Judge, we submit that
6 it was improperly suggestive and thus would taint
7 the in-court identification, should they seek to
8 elicit that testimony.

9 THE COURT: Okay. I'm also looking at
10 what the officer read to him when he showed him
11 the six-pack which includes, "You should not
12 conclude or guess that the photographs contain the
13 picture of the person who committed the crime.
14 You are not obligated to identify anyone." So as
15 they always do, they always say, *That person may*
16 *or may not be in here.*

17 We'll go ahead and make that another Court's
18 exhibit.

19 But if those are the only bases for
20 trying to suppress the six-pack, I think it's
21 fine.

22 MR. MCFADDEN: The next motion is the
23 jail call. I don't know if Your Honor had the
24 opportunity --

25 THE COURT: I did not have an opportunity

1 to play it. So does someone want to just go ahead
2 and cue it up so I can hear it really quickly,
3 whatever portion you're going to use.

4 MS. MOLINA: And just going back to the
5 line-up, we did create a line-up where we blurred
6 out the orange, so that is not obvious they're
7 wearing orange jumpsuits. I can use that one
8 instead of this one.

9 MR. MCFADDEN: Certainly, I moved for
10 suppression, so I will make my proper objection --

11 THE COURT: Would you prefer her to use
12 with the jury one without the orange jumpsuits?

13 MR. MCFADDEN: I certainly would prefer
14 that one over the other.

15 THE COURT: Thank you. I assumed as
16 much. Because we don't want this jury erroneously
17 determining that your client already has a rap
18 sheet for some reason, or at least he's been
19 arrested. So I think you would prefer to have one
20 where no one is in an orange jumpsuit.

21 MR. MCFADDEN: Absolutely.

22 THE COURT: Okay.

23 You also had a motion to suppress
24 in-court identification of the defendant due to
25 suggestive police procedures. I don't even know

1 if it would be a suggestive police procedure other
2 than he's sitting next to you and he's your
3 client. So, is there any other basis?

4 MR. MCFADDEN: It was that. It was the
5 six-pack.

6 THE COURT: Okay.

7 MR. MCFADDEN: I was suggesting that for
8 the out-of-court.

9 THE COURT: All right. Just to make
10 sure.

11 So, while Ms. Molina is looking to cue
12 the jail phone call up for me, you have a motion
13 to sequester witnesses.

14 MR. MCFADDEN: Yes.

15 THE COURT: Okay. Any objection with
16 that? Duncan is your lead investigator, correct?

17 MS. MOLINA: Correct.

18 THE COURT: And problem with
19 sequestering.

20 MS. MOLINA: No problem with sequestering
21 besides Investigator Duncan and our victim.

22 THE COURT: That's fine.

23 MR. MCFADDEN: And then the records --
24 Ms. Molina handed me reports for Miss Stacey
25 Pritchett and Miss Sebrina Brown.

1 THE COURT: Does Mr. Gecy have a record,
2 the victim?

3 MS. MOLINA: No.

4 THE COURT: Okay.

5 MR. MCFADDEN: I think we agreed for Miss
6 Pritchett, she's got a 2017 shoplifting.

7 MS. MOLINA: A crime of dishonesty within
8 10 years.

9 THE COURT: It comes in.

10 So if you can get that keyed up, Miss Molina.

11 (911 call played.)

12 THE COURT: So what part of that were you
13 trying to use, Miss Molina?

14 MS. MOLINA: The parts that the State
15 seeks to introduce are around four minutes and he
16 said it's not a serious situation, no one got
17 hurt, it's a petty larceny. It's not a petty
18 larceny. The only reason it's not is because it's
19 a BB gun. All the guns in the real world until
20 about 4:46.

21 And then around 6:20, he talks about he
22 went on "My Facebook," talking about
23 correspondence. I could have been hacked.

24 And then 9:29-ish, acting like I robbed a
25 bank, a federal building, armored truck, BB gun

1 broken, didn't find it on me.

2 We obviously would agree to redact
3 references to other cases, bonds, disagreements
4 between the defendant and Mr. McFadden.

5 THE COURT: *They referred me 15 years.*

6 MS. MOLINA: Any reference to punishment
7 and fighting for his life, and any of the legal
8 arguments like the no probable cause and search
9 warrant because that's what we have handled here
10 today.

11 THE COURT: Okay. Mr. McFadden.

12 MR. MCFADDEN: Thank you.

13 Judge, two parts to my motion. First goes to
14 how they, the State, obtained the jail call here. I
15 would argue that if this jail call were obtained by
16 the solicitor's office for -- specifically for
17 purposes of use at trial, finding evidence at trial,
18 if that's why the calls were searched and how it was
19 collected, that runs a foul of his rights under the
20 Fourth Amendment, Article and Section 10 per our
21 state's Constitution. I do have a case on this one.
22 *State vs. Ellison*, 266 S.C. 494.

23 THE COURT: What does it say?

24 MR. MCFADDEN: In that case what was at
25 issue was, it was a law enforcement detective

1 opening a pretrial detainee's outgoing letters,
2 not for purposes of jail security but looking for
3 it's use at trial. And the court ultimately came
4 down that that was -- that because it wasn't for
5 that legitimate purpose, that it was in violation
6 of his rights. I have that case I can pass up for
7 you to take a look at.

8 MS. MOLINA: Can I have the case?

9 MR. MCFADDEN: Of course, I do.

10 So that's number one. I don't know how
11 they got it. I don't know if this was from jail
12 staff monitoring it or if -- or how it was found.
13 So that's, kind of, just the legal side of it. Or
14 the, sorry, kind of, Constitution or Fourth
15 Amendment side of it.

16 The second part is, I don't know see -- I
17 can't see what they're arguing is really
18 admissible in this call, because I certainly can't
19 tell if he's talking about commenting on the
20 discovery, like these excerpts that she mentions
21 or the allegations that he shared in bond court or
22 a pre-lim. I don't -- I think that's significant
23 for a 403 problem there, that generally he's just
24 expressing frustration about a number of things
25 that he perceives with the case.

1 THE COURT: The problem is it's his own
2 statement.

3 MR. MCFADDEN: It is. I don't think it's
4 clear from the call itself, I guess, that he's
5 making an admission about what actually happened,
6 or just commenting on what they're saying
7 happened, or they're saying I did this, about the
8 Facebook profile. At least I can't tell from
9 listening to it if he's not just remarking on what
10 he's seen or heard about the case.

11 MS. MOLINA: I think to that point would
12 go to weight and not admissibility. It's
13 certainly the State's position that he is talking
14 about his case because he is frustrated with
15 everything. In the context that we understand it,
16 he's talking about how he's got this sentencing
17 recommendation that he doesn't feel is
18 proportional to what he did because there was a BB
19 gun and it should be a petty larceny because's
20 it's not like he robbed a bank. That's the
21 State's position. Those arguments would go to
22 weight, not admissibility.

23 THE COURT: I know. Let me sit on that
24 one. The only little bit of concern I have is
25 that because so much of it is going to be redacted

1 because it's not admissible, I want to make sure
2 it's not taken out of context.

3 I understand what your argument is,
4 Mr. McFadden. What you're saying is he's going
5 through what are the elements of petty larceny,
6 and because it isn't X, Y, Z, it should be a petty
7 larceny. I don't know if it's necessarily an
8 admission by him.

9 Again, that does go to the jury's
10 interpretation of what he's saying. And, again,
11 I'm still having a bit of an issue with the
12 admissibility. I think the only way it stays out
13 is if by chopping it up so much from the things
14 that are not allowed if it makes it just not
15 within context and so it makes no sense, and the
16 jury doesn't have a way to judge the whole thing.

17 I don't know. Let me think on that. I'm
18 probably going to listen to it again myself.

19 MR. MCFADDEN: And, respectfully, we ask
20 that you consider that case.

21 THE COURT: I will. I want to read this.
22 I appreciate that. What year is it? How old is
23 it?

24 MR. MCFADDEN: That's a little bit older.

25 MS. MOLINA: 1976.

1 MR. MCFADDEN: But I think the principles
2 line up. And, again, I don't know how they got it
3 here.

4 THE COURT: Okay. Let me read it. I'd
5 like to read it.

6 MR. MCFADDEN: Judge, I think that
7 concludes what I have here.

8 THE COURT: Anything else?

9 MR. MCFADDEN: We took care of
10 sequestration. The records. I have nothing
11 further. Thank you.

12 THE COURT: I told the jury to come back
13 9:30 tomorrow?

14 MR. MCFADDEN: Yes.

15 THE COURT: Thank you.

16 MS. MOLINA: The only thing with the jail
17 call is in preparation for you allowing it in --

18 THE COURT: Why don't you go ahead and
19 redact the whole then as you need to as if -- what
20 you want to put in.

21 MS. MOLINA: Okay.

22 THE COURT: Just do it that way, if I
23 allow it in.

24 MS. MOLINA: Because I wanted to, just in
25 case, have redactions done.

1 THE COURT: Go ahead and do the
2 redaction. And if I say it's not coming in at
3 all, then it won't. But, actually, also, it would
4 be helpful also for me to hear it once you redact
5 it so I know how the jury is going to hear it.

6 MS. MOLINA: Okay.

7 THE COURT: Because that might make a
8 difference in my allowing it in, too. Okay?

9 MS. MOLINA: Or if there is anything
10 additional that the defense would request
11 besides -- you know.

12 THE COURT: Complaining about his lawyer,
13 obviously.

14 MS. MOLINA: Yes. I think there's a lot
15 that we can agree on that comes out. If there's
16 anything I didn't mention that you would also --

17 MR. MCFADDEN: I just don't agree that it
18 should come in, period.

19 MS. MOLINA: Yes.

20 THE COURT: I understand.

21 MS. MOLINA: Just in preparation.

22 THE COURT: I mean, all the part about
23 him saying there was no search warrant, they can't
24 just go to my Facebook account.

25 MS. MOLINA: Right.

1 THE COURT: That's not what they did.
2 What they did was, he sent a Facebook message to
3 the victim, and that's where they got his
4 Facebook. So, again, there's no expectation of
5 privacy in that.

6 So -- okay.

7 MS. MOLINA: Just for preparation
8 purposes --

9 THE COURT: Do your redactions for
10 everything except for what the bare bones is of
11 what you try to get in and let me hear it to see
12 if it's in context. Once you've actually redacted
13 it, I would appreciate you emailing it to me so I
14 can hear it tonight or tomorrow morning.

15 MS. MOLINA: Yes.

16 THE COURT: And then I can make a ruling
17 on it based on what actually is coming in.

18 MS. MOLINA: Yes.

19 THE COURT: I'm just wondering -- I'm
20 just trying to figure out if the context is
21 there.

22 MS. MOLINA: Right.

23 THE COURT: Okay. Because it may be more
24 prejudicial than probative and it may not be
25 relevant in any way once you've taken it all out.

1 Okay. Anything else?

2 MR. MCFADDEN: Nothing from me.

3 THE COURT: Anything else?

4 MS. MOLINA: No.

5 THE COURT: All right. So no problem
6 having him here and dressed out tomorrow by
7 9:15-ish? Is that good?

8 DEPUTY: Yes, ma'am.

9 THE COURT: I appreciate it, you-all.
10 How many witnesses are you putting up?
11 That was a really long witness list you have in
12 this case. I'm assume you're not calling all
13 those people.

14 MS. MOLINA: I'm not calling all of those
15 people.

16 THE COURT: Okay. So how many people do
17 you hope to put up tomorrow?

18 MS. MOLINA: I could probably get through
19 the majority tomorrow.

20 THE COURT: Do you have anyone that's not
21 available tomorrow that you for sure have to put
22 up on Wednesday?

23 MS. MOLINA: No. I think the people that
24 traveled -- I know at least one of the people that
25 traveled, his flight is Wednesday, so we would

1 definitely get him Tuesday. Officer McKensie
2 drives here.

3 THE COURT: Okay.

4 MS. MOLINA: And so everybody else would
5 be local.

6 THE COURT: Okay. Anything else we need
7 to put on the record?

8 MR. MCFADDEN: No. Thank you, Judge.

9 MS. MOLINA: Nothing from the State.

10 THE COURT: Okay. I appreciate it. So
11 I'll see everyone tomorrow at -- how about we try
12 to be a little after 9:00, be ready to go if
13 there's anything else we need to put on the
14 record. Thank you. We'll see you-all in the
15 morning.

16 MS. MOLINA: Yes, ma'am.

17 (The proceedings were adjourned.)

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CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in General Sessions for Beaufort County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

November 26, 2024

A handwritten signature in black ink, reading "Sharon G. Hardoon". The signature is written in a cursive, flowing style with a large initial 'S'.

Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF BEAUFORT

4 State of South Carolina,

5 vs. Transcript of Record
6 2022-GS-07-00529,
7 2022-GS-07-00530

8 Jonathan J. Robinson, III,
9 Defendant.

10 June 4, 2024
11 Beaufort, South Carolina
12 Volume II

13 B E F O R E:

14 The HONORABLE CARMEN MULLEN

15 A P P E A R A N C E S:

16
17 Samantha Molina, Assistant Solicitor
18 Rachel DeAngelis, Assistant Solicitor
19 Jacob McFadden, Representing the defendant
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1 THE BAILIFF: All rise.

2 THE COURT: My understanding, Miss
3 Molina, you are not going to use the jail phone
4 call; is that correct?

5 MS. MOLINA: Yes.

6 THE COURT: Anything to take up this
7 morning?

8 MR. MCFADDEN: That's correct. Not from
9 the defense.

10 MS. MOLINA: Not from the State.

11 THE COURT: Okay, we're going to bring
12 the jury in.

13 You're going to swear the jury in for me,
14 please?

15 THE CLERK: Yes.

16 THE BAILIFF: Jury is entering the
17 courtroom, Your Honor.

18 (Jury enters the courtroom at 9:50 a.m.)

19 THE COURT: Thank you. Very good.

20 Good morning we are going to start off by
21 swearing you-all in.

22 THE CLERK: Please stand and raise your
23 right hand. Do you swear or affirm that you shall
24 well and truly try and true deliverance make
25 between the State of South Carolina and the

1 defendant accused and a true verdict give in
2 accordance to the evidence so help you God?

3 JURY PANEL: I do.

4 THE CLERK: Thank you so much. You may
5 be seated.

6 THE COURT: Good morning, ladies and
7 gentlemen. What I am now going to say to you is
8 intended to serve as an introduction to the trial
9 of this case. These remarks are not a charge on
10 the law. I'm going to instruct you on the law
11 that's applicable to this case at the very end of
12 the trial. This is merely an explanation of the
13 procedure that we're going to follow so you can
14 better understand what's happening.

15 Now, ladies and gentlemen, the defendant
16 in this case, Jonathan Robinson, has been charged
17 by bills of indictment in this court with the
18 offenses of armed robbery and possession of a
19 weapon during the commission of a violent crime,
20 the elements of which I will explain to you at the
21 end of this trial.

22 Now, an indictment is simply the charge
23 by which a case is brought into the court, and it
24 is not in any sense evidence of any of the
25 allegations that contains.

1 Now, the defendant in this case,
2 Mr. Robinson, has pled not guilty to these
3 indictments. The State, therefore, has the burden
4 of proving each of the elements of each of the
5 indictments beyond a reasonable doubt and it's
6 your duty as jurors to decide whether the State
7 has met that burden.

8 Now your purpose as jurors is to find and
9 determine the facts. You, the jury, are the sole
10 judge of all facts in this case. If at any time,
11 I make any comment regarding a fact in this case
12 you must disregard it and you are to determine the
13 facts from the testimony that you hear from the
14 witness stand as well as any other evidence that's
15 introduced during the trial of this case.

16 It is especially important that you
17 perform your duty in determining the facts
18 diligently and consciously because ordinarily
19 there is no way to correct an erroneous
20 determination of the facts by a jury.

21 On the other hand and with equal
22 emphasis, the same law that makes you the judge of
23 the facts makes me the judge of the law. The law
24 is given by the Court is the only law you may
25 consider and you must accept and follow it even

1 though you may disagree with it. I cannot tell
2 you what the facts in this case are and you cannot
3 disagree with me about what the law is or what the
4 law should be. Your job at the end of this trial
5 is to take the law as I give to you and apply it
6 to the facts as you find them and from there
7 render a true and just verdict under the oath you
8 took.

9 Now, until I tell to you to begin your
10 deliberations, you must not discuss this case with
11 anyone and that includes each other, friends,
12 family members, or anyone that's involved in this
13 case. As I told you before, the attorneys and the
14 parties have been instructed not to speak to you
15 in coming and going from the courthouse over the
16 next day or two. Again, I don't want you to
17 believe that we're being unfriendly in any way.
18 They're simply following my orders.

19 Also, ladies and gentlemen, you are not
20 to read, listen to, or watch any news reports
21 about this case, and that includes anything that
22 may be in the newspaper, on the Internet, or the
23 radio or the television. And you must not
24 consider anything that you may have read or heard
25 about this case outside this courtroom whether it

1 was before the trial or during the trial. It is
2 important that you keep an open mind and not
3 decide any issue in this case until all the
4 evidence has been presented, the parties have made
5 their the closing arguments, and I've instructed
6 you on the law that's applicable to this case.
7 Your verdict must be based solely on the evidence
8 as it was presented to you in this trial and on
9 the law that I will instruct you during and at the
10 close of the trial.

11 Now, in just a moment, the solicitor
12 going to make what is called an opening statement
13 in which the solicitor will explain to you the
14 issues in this case, or at least what the
15 solicitor thinks the issues are in this case. The
16 attorney for the defendant may also make an
17 opening statement, although he is not required to
18 do so. Please understand that what these
19 attorneys tell you in their opening statements is
20 not evidence in the case. Again, it is only their
21 contention as to what the issues are. The
22 evidence in this case will be presented to you by
23 testimony of sworn witnesses from the witness
24 stand and by exhibits that may be introduced into
25 evidence.

1 Now, I want you to know that from time to
2 time during the trial you may hear one of the
3 lawyers say something like, Your Honor, I believe
4 we have a question of law to take up, or maybe
5 approach the bench, or sometimes I, myself, might
6 find it necessary to excuse you from the courtroom
7 and send you back to your jury room. I want you
8 to understand something, we are not hiding
9 anything from you. Oftentimes, when I have to
10 rule as a matter of law whether or not certain
11 evidence is admitted, I may make a comment on the
12 facts of the case. But I would never want
13 anything I do to influence you in your
14 determination of facts. Out of an abundance of
15 caution, we just do it outside your presence.

16 Now, in determining what the true facts
17 are in this case, you must decide whether or not
18 the testimony of the witnesses is believable.
19 It's my responsibility to rule as a matter of law
20 whether or not certain testimony is admitted. But
21 once it is admitted, whether or not you believe it
22 is for you to determine.

23 In deciding whether to believe a witness,
24 you have the right to consider the interest of any
25 witness, the bias of any witness, the prejudice of

1 any witness, and you can look at the opportunity
2 for the witness to have seen the matters and
3 things by which the witness may testify. And you
4 may also look at the way the witness acts on the
5 witness stand. You have the right to consider
6 anything that is in the record that will help you
7 evaluate the testimony of the witness. Therefore,
8 it is your duty to pay close attention, ladies and
9 gentlemen, to observe these witnesses, to listen
10 to them, so at the very end of the trial you can
11 accurately remember the testimony as given.

12 Now, in order to preserve everyone's
13 rights, I'm going to give the parties an
14 opportunity to object to anything I've said or ask
15 for any additions. If there are none, ladies and
16 gentlemen, we are going to begin the trial of this
17 case.

18 Anything from the State?

19 MS. MOLINA: Nothing from the State.

20 THE COURT: Anything from the defense?

21 MR. MCFADDEN: Nothing. Thank you.

22 THE COURT: Thank you.

23 Ladies and gentlemen, at this time, we will
24 go ahead and begin the trial.

25 Solicitor.

1 MS. MOLINA: May it please the Court?

2 THE COURT: Yes, ma'am.

3 OPENING STATEMENT

4 MS. MOLINA: This case is about an armed
5 robbery, and after you hear and see all the
6 evidence you're going to know that that's what it
7 is. The victim, Brian Gecy, made a post in a
8 Facebook buy/sell directory to sell a PlayStation,
9 a controller, and a couple of games. In response
10 to that post, the defendant lured him to the Dale
11 Community Center under the guise of being a
12 willing buyer.

13 When they got there, the defendant put
14 the PlayStation, controller, and games into his
15 backpack and then pulled a gun on Mr. Gecy.

16 After he pulled the gun on him, you will
17 hear that he also took his phone and his watch and
18 attempted to take his wallet. He then told
19 Mr. Gecy get back in his truck and leave.

20 The defendant is charged with armed
21 robbery with possession of a weapon during a
22 violent crime. The State's burden is to prove
23 those elements to you beyond a reasonable doubt.
24 It's your job to listen to all of the evidence and
25 look at all of the evidence. And, after you've

1 done that, you will know what this is. And I will
2 come back up here and ask you to find him guilty
3 of armed robbery and possession of a weapon during
4 a violent crime.

5 MR. MCFADDEN: May it please the Court?

6 THE COURT: Yes, sir.

7 MR. MCFADDEN: Thank you, Your Honor.

8 Miss Molina.

9 OPENING STATEMENT

10 MR. MCFADDEN: Ladies and gentlemen, good
11 morning. I'm Jacob McFadden for Mr. Robinson.
12 And, folks, I would like to take a second to thank
13 you for your service today, and to, kind of,
14 emphasize the importance of it as part of our
15 system. So, I feel pretty comfortable suggesting
16 that there might be a place other than the
17 Beaufort County courthouse right now that you
18 might desire to be somewhere else, family,
19 friends, loved ones, or potentially a need to be
20 somewhere else, just to attend to the basic
21 responsibility of life. I'm certain that when
22 some people opened the jury summons the reaction
23 is one of, you know, joy and glee, race to the
24 courthouse to perform my duty. You know, it is --
25 it's an obligation. You're not called upon to

1 come here just to spectate, but rather to perform
2 a duty. Just as that little film showed during
3 qualifications, a very significant duty here.
4 This being a criminal case, that has to make the
5 determination of someone's fate, whether they're
6 convicted of a crime or not. So, I think it's
7 very reasonable to think that this might not be
8 your chosen best activity that you could imagine
9 yourself doing Tuesday morning at 10 a.m. And no
10 one's getting rich doing jury service.

11 But, folks, I would like to stress how
12 important your job is today and your role. And,
13 you know, jury service certainly is a sacrifice
14 but a necessary one, I would argue. And one that
15 is fundamental and lies at the very core of our
16 justice system.

17 Folks, it's been said that, apart from
18 serving one's country during times of war, serving
19 as a jury is the highest calling a citizen can
20 answer. I don't think that is overstated one bit,
21 because it is through your service here today in
22 this case that rights that all of us enjoy, take
23 for granted, assume will be there for us when we
24 need them are guaranteed. Without that service
25 the system would immediately be unable to function

1 here. Because, folks, this being a criminal case
2 here, you're called upon to hear and decide facts.
3 When the power of the State is focused upon the
4 rights of an individual and the government is
5 seeking a conviction, you are what stands in
6 between them and that conviction.

7 And the burden that I mentioned to you
8 before is prove beyond a reasonable doubt. How
9 the State has to get there is what they have to do
10 to convince you of that. That is the highest
11 burden in your justice system. And one that I
12 submit to you the State has failed to meet today
13 after you've heard all the evidence from the
14 witness stand.

15 As Judge Mullen explained to you, my
16 argument, her argument, none of that is evidence.
17 The indictment is not evidence. The fact he was
18 charged and arrested, none of that. Him being
19 brought in this courtroom and him being called a
20 defendant is also not evidence. That's the
21 presumption of innocence. Again, one of those
22 bill of rights that we enjoy. And the only
23 evidence in this case will come from the witness
24 stand.

25 So, folks, the prosecutor has to show

1 you, each and every one of you, the verdict must
2 be unanimous that my client committed the offenses
3 charged, each and every element that Judge Mullen
4 will instruct you on, and has to -- you have to be
5 left firmly convinced that the evidence proves
6 that he committed each and every one of the
7 offenses.

8 And, folks, I submit to you at the close
9 of this case that they failed to do that. And I
10 believe I mentioned, at the end of the case, we
11 will come back before you and present some brief
12 argument about what we think the evidence proves.

13 At that time, respectfully, I will be asking
14 you, pursuant to your duties and under your oath as
15 jurors in this case to find my client not guilty of
16 both of his charges. Thank you.

17 THE COURT: The State will call their
18 first witness.

19 MS. MOLINA: The State calls Allyson
20 Moreira.

21 THE CLERK: Would you raise your right hand
22 for me? Do you solemnly swear or affirm to truthfully
23 answer all questions asked of you by this Court so
24 help you God?

25 THE WITNESS: I do.

1 THE CLERK: Thank you. Have a seat right
2 here. Say your first name and last name and spell
3 your last name for the Court. Thank you.

4 THE WITNESS: Allyson Moreira,
5 M-o-r-e-i-r-a.

6 WHEREUPON:

7 ALLYSON MOREIRA,
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1 Testimony of Allyson Moreira
after having been sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. MOLINA:

4 Q Good morning, Ms. Moreira. Where do you work?

5 A I work for the Beaufort County Sheriff's
6 Office.

7 Q What do you do at the Beaufort County Sheriff's
8 Office?

9 A I enter all 911 calls into evidence.

10 Q Are you the records custodian of the 911 calls?

11 A Yes.

12 Q Are those calls kept in the ordinary course of
13 business?

14 A They are.

15 Q Okay. I'm going to hand you what's has been
16 marked as State's Exhibit 1. Do you recognize that
17 item?

18 A I do.

19 Q What is it?

20 A It's 911 disk.

21 Q Is that the 911 call from March 19th, 2022?

22 A Yes.

23 Q How do you know?

24 A It has my initials on it.

25 MS. MOLINA: At this time, the State

Testimony of Allyson Moreira

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1 moves State's Exhibit 1 into evidence.

2 MR. MCFADDEN: No objection.

3 THE COURT: Without objection, it's in
4 evidence.

5 MS. MOLINA: And permission to publish.

6 THE COURT: You may.

7 (STATE EXH. 1, 911 Call, was marked and
8 entered into evidence.)

9 (911 call played.)

10 MS. MOLINA: No further questions for
11 this witness.

12 MR. MCFADDEN: Nothing from the
13 defense.

14 THE COURT: Okay. You may be excused.
15 Thank you.

16 Call your next witness.

17 MS. MOLINA: The State calls Daniel
18 Anderson.

19 THE CLERK: Raise your right hand. Do
20 you solemnly swear or affirm to truthfully answer
21 all questions asked of you by this Court so help
22 you God?

23

24 THE WITNESS: I do.

25 THE CLERK: Thank you. Have a seat right

Testimony of Allyson Moreira

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1 here. Say your first name and last name and spell
2 your last name for the Court.

3 THE WITNESS: My name is Daniel Anderson,
4 A-n-d-e-r-s-o-n.
5 WHEREUPON:

6 DANIEL ANDERSON,
7 after having been sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. MOLINA:

10 Q Good morning, Mr. Anderson. Where do you work?

11 A Beaufort County IT department.

12 Q And what do you do for the Beaufort County IT
13 department?

14 A I'm the physical security administrator.

15 Q As part of your duties and responsibilities, do
16 you include records and surveillance videos?

17 A Yes.

18 Q Are those records kept in the ordinary course of
19 business?

20 A Yes.

21 Q And is the surveillance recording
22 contemporaneously with -- as it detects movement?

23 A Yes, it does.

24 Q Okay. And did you pull surveillance footage from
25 March 19th, 2022 around 12:30 at the Dale Community

1 Center?

2 A I did.

3 Q I'm handing you State's Exhibit Number 2. Do you
4 recognize State's Exhibit 2?

5 A Yes, I do.

6 Q And what is that?

7 A This is a CD of the footage, and it has my
8 initials here. I'm the one that pulled that.

9 MS. MOLINA: State moves State's Exhibit
10 2 into evidence.

11 MR. MCFADDEN: Your Honor, I do have a
12 foundation objection here, in that if there's time
13 stamps or hearsay on, like, the -- how it's being
14 published over the player, I think some more needs
15 to be laid to get it in. If those other elements
16 are accurate.

17 THE COURT: I haven't seen it, so I don't
18 know.

19 BY MS. MOLINA:

20 Q Are the surveillance cameras labeled for which
21 direction they are facing?

22 A Yes.

23 Q And you said that they are recorded
24 contemporaneously, so are they time and date
25 stamped?

Testimony of Allyson Moreira

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1 A They are.

2 Q Do they include audio?

3 A No audio, no.

4 MS. MOLINA: All right.

5 THE COURT: I haven't seen it yet, so go
6 ahead and publish them, and they are admitted.

7 MS. MOLINA: Thank you.

8 (STATE EXH. 2, Surveillance Footage, was
9 marked and entered into evidence.)

10 BY MS. MOLINA:

11 Q And as we're watching this, is the camera motion
12 detection --

13 A It detects motion and it records motion.

14 Q So if there's no motion --

15 A There is no recording.

16 THE COURT: Mr. Anderson, can you
17 identify where that is?

18 THE WITNESS: This is the Dale Community
19 Center out in Dale. It's near the school, the
20 Dale school. I think that's the entrance. I'm
21 not sure.

22 BY MS. MOLINA:

23 Q Is it in Beaufort County?

24 A It is. It's off of Whale Branch Road.

25 (Surveillance video played.)

1 BY MS. MOLINA:

2 Q Okay. Mr. Anderson, I am going to hand you what
3 has been marked as State's Exhibits 7, 6 --

4 MR. MCFADDEN: Can I see those?

5 BY MS. MOLINA:

6 Q State's Exhibits 7, 6, 3, 4, 5, and 8. Do you
7 recognize those images?

8 A Yes, ma'am, I do.

9 Q And are those stills from the surveillance we just
10 watched?

11 A Yes, they are.

12 Q And are they a fair and accurate depictions of the
13 surveillance?

14 A Yes, they are.

15 MS. MOLINA: State moves State's 3
16 through 7 into evidence.

17 MR. MCFADDEN: Only the foundation, in
18 that if there are stills from it -- if he created
19 them or the State created them, that's my only
20 objection, is foundation on that regard as to if
21 they are fair and accurate.

22 THE COURT: Can I see them?

23 MS. MOLINA: He's the record custodian.
24 He authenticated the video. And he testified they
25 are fair and accurate depictions of that video.

Testimony of Allyson Moreira

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1 THE COURT: I'll allow them into
2 evidence. Overruled.

3 (STATE EXH. 3, Still Image of Surveillance,
4 was marked and entered into evidence.)

5 (STATE EXH. 4, Still Image of Surveillance,
6 was marked and entered into evidence.)

7 (STATE EXH. 5, Still Image of Surveillance,
8 was marked and entered into evidence.)

9 (STATE EXH. 6, Still Image of Surveillance,
10 was marked and entered into evidence.)

11 (STATE EXH. 7, Still Image of Surveillance,
12 was marked and entered into evidence.)

13 (STATE EXH. 8, Still Image of Surveillance,
14 was marked and entered into evidence.)

15 Q I have no further questions for this witness.
16 Please answer any the defense has.

17 MR. MCFADDEN: Court's indulgence for
18 just a moment. I don't have any questions. Thank
19 you.

20 THE COURT: You are excused, Mr.
21 Anderson. Thank you.

22 THE WITNESS: Thank you.

23 THE COURT: Call your next witness.

24 MS. MOLINA: The State calls Brian Gecy.

25 THE CLERK: Raise your right hand for

Testimony of Brian Gecy

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1 me. Do you solemnly swear or affirm to truthfully
2 answer all questions asked of you by this Court so
3 help you God?

4 THE WITNESS: I do.

5 THE CLERK: You can have a seat right
6 here. Say your first name and last name for the
7 Court, and spell your last name. Thank you.

8 THE WITNESS: Brian Gecy, G-e-c-y.

9 WHEREUPON:

10 BRIAN GECY,
11 after having been sworn to tell the truth, testified
12 as follows:

13 DIRECT EXAMINATION

14 BY MS. MOLINA:

15 Q Good morning. Where are you from?

16 A Beaufort.

17 Q And where are you living now?

18 A Lady's Island.

19 Q What do you do?

20 A I own an insurance agency. Actually, at this
21 time, I was just opening up my agency.

22 Q Back in March of 2022?

23 A Yes, ma'am.

24 Q And do you ever sell things on Facebook?

25 A Yes, I have. I sold a boat. Sold some other

Testimony of Brian Gecy

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1 small items. Purchased some things as well on
2 Facebook. Sold some of my daughter's stuff. This
3 was actually some of her things that I was selling
4 that she wanted to sell, so I told her I would do
5 it for her. I didn't want her to get into any
6 trouble like this.

7 Q And, in March of 2022, did you make a post to sell
8 this?

9 A I did. It's a PlayStation, two controllers,
10 and a couple of games. It was limited edition
11 blue PlayStation.

12 Q Are you a member of any group?

13 A Yeah, I'm several groups. I can't recall all
14 the names, but post them on all sorts of groups.

15 Q That you can buy and sell items?

16 A Buy and sell, yes, ma'am.

17 Q I'm going to hand you State's Exhibit 9. Do you
18 recognize that item?

19 A Yes, ma'am.

20 Q What is it?

21 A That's the PlayStation IV, limited edition
22 with Grand Theft Auto and two other disks.

23 Q Is that the post you made?

24 A Yes, ma'am.

25 Q Is that a fair and accurate depiction of your

1 post?

2 A Yes, ma'am.

3 Q What date was it made?

4 A March 16, 2022.

5 MS. MOLINA: State moves State's Exhibit
6 9 into evidence.

7 MR. MCFADDEN: No objection.

8 THE COURT: Without objection.

9 MS. MOLINA: And permission to publish.

10 THE COURT: You may publish.

11 (STATE EXH. 9, Photo; Post, was marked for
12 identification and entered into evidence.)

13 BY MS. MOLINA:

14 Q Okay. And these are the items that you posted to
15 this Low Country Buy-Sell-Trade.

16 A Yes.

17 Q Did you have boxes for these other two disks?

18 A No, I did not. It was just for that.

19 Q And the cords and everything are included?

20 A Yes, ma'am.

21 Q And I'm assuming the game is in the Grand Theft
22 Auto box?

23 A Correct.

24 Q After you posted this, did you receive any
25 inquiries to buy it?

Testimony of Brian Gecy

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1 A Several, from Savannah, Georgia; Macon, all
2 over the place, but really, kind of, picky.
3 Trying to stay local. Trying to make sure I do
4 local stuff. I'm not going to drive anywhere. We
5 had all sorts of people calling about it. So I
6 always try to work with people, somebody I can
7 talk to, or, you know, just really try to stay
8 here. I'm not going to go very far.

9 Q And did you agree to sell it to anybody?

10 A To Mr. Robinson, yes.

11 MR. MCFADDEN: Judge, object to the
12 identification based on my -- subject to my
13 pretrial objections.

14 THE COURT: All right. Overruled.

15 Go ahead.

16 BY MS. MOLINA:

17 Q On Marth 19th, 2022, what did you do that day?

18 A It was a Saturday. Actually, I had one
19 person at Walmart -- meet me at Walmart who wanted
20 to buy it. I drove there. They didn't show. I
21 had some inquiries through the other gentleman, so
22 I reached out to him. He wanted to meet at a
23 Burger King. He said he couldn't meet. He had to
24 get a car ride. I said, *I'll meet you. Where are*
25 *you?* He said, *Burton*. I know the area. I know

Testimony of Brian Gecy

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1 the place. I know -- I've been here all my life.

2 I said, *Well, I'll just meet you there, wherever*
3 *you'd like to meet.* So he gave me an address, so
4 I started heading out towards -- I was at Walmart
5 in Burton, so I started heading out.

6 Q Did you initially suggest a place?

7 A I originally wanted to go to the air station
8 in between. Just always try to be leery of the
9 place. I figured it would be public and it would
10 be a lot safer.

11 Q But you agreed to meet him at the Dale Community
12 Center?

13 A I did. After, I did that. After I was on
14 the phone with him --

15 Q Okay.

16 A -- and I was talking with him.

17 Q Okay. I am going to show you what has entered
18 into evidence as State's Exhibit 2.

19 MS. MOLINA: If we can turn the screen
20 back on, please.

21 BY MS. MOLINA:

22 Q And I've skipped forward a little bit to
23 12:34 p.m., and if you could just, kind of, tell us
24 what is going on on the screen, please.

25 (Video played.)

Testimony of Brian Gecy

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1 BY MS. MOLINA:

2 Q Is this your truck?

3 A Yes, ma'am, that is.

4 Q Okay. Is that you?

5 A Yes, ma'am.

6 Q And what are you doing?

7 A I put everything into a box. I actually had
8 some other items that were for somebody else, so I
9 was taking them out and just putting the
10 PlayStation into the box. I didn't know if he --
11 just trying to keep it together. If he wanted the
12 box, he could have a box.

13 Q So you brought a box for him, too, to carry it
14 all?

15 A Yeah.

16 Q And he hasn't arrived yet, has he?

17 A No, he has not.

18 Q Had you talked to him on the phone prior to
19 this?

20 A On the way in, I called him.

21 Q Okay.

22 A We were text messaging each other, but I
23 wanted to talk to him. So I was trying to make a
24 good assessment. I knew where I was going. After
25 I got on the road, I thought I might be in a bad

1 situation. I spoke to him on the phone and I
2 could hear in the background --

3 THE WITNESS: Objection hearsay.

4 MS. MOLINA: It's a party opponent.

5 MR. MCFADDEN: It could be a
6 double-hearsay situation.

7 THE COURT: Overruled. Go ahead.

8 BY MS. MOLINA:

9 Q Is this you now looking around for him?

10 A I was just, kind of, assessing the situation
11 out there. Looking at the ballpark. Just, you
12 know, kind of, a county park.

13 Q Had you been to the Dale Community Center before
14 this?

15 A No, I had not. Actually, it was -- like I
16 was saying earlier, when I was talking on the
17 phone, I was admiring how I had never been out
18 here and it was a pretty place. But I think I'm
19 on the phone with him now telling him I'm there.

20 Q And after talking to him on the phone, you were
21 comfortable meeting him?

22 A Yeah, I think it was a birthday I could hear
23 in the background.

24 MR. MCFADDEN: Objection; hearsay. It
25 sounds like a double-hearsay situation.

Testimony of Brian Gecy

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1 THE COURT: Okay. But he's not saying
2 anything anyone said. He's saying it sounds like
3 there was a birthday in the background. So he
4 didn't say anything in specific, so I'm allowing
5 it.

6 THE WITNESS: What I was going to say is
7 that, I was assessing the situation. And, as I
8 was talking to him, I could hear either his mother
9 in the background about a birthday party or
10 something, so I felt a little more comfortable
11 because I thought it was a family situation.

12 BY MS. MOLINA:

13 Q Okay.

14 A So here I'm just putting the stuff together.

15 Q And I'm going to skip us forward to about 12:41.
16 Had you gotten back inside your truck at this point?

17 A I did. I think I went around the other side
18 and I got back in. I was on a call with my wife,
19 and I actually -- something told me I was in a bad
20 place. I told my wife on the phone, if you don't
21 hear from me in 20 minutes call me, or call the
22 police.

23 Here I am. I'm just explaining everything to
24 him. *Hey, I got two controllers, a couple of disks,*
25 *you know, everything works great. It's a limited*

1 *edition. You know, I had a lot of people ask for it.*

2 He's not saying much to me. He just takes the
3 backpack in a little bit. I'm still explaining,
4 pulling all the parts out. *Hey, you know, all the*
5 *stuff is here. Here's the cord.*

6 Q Showing him that you have provided all of the
7 components.

8 A Yes. And then at some point here in a little
9 bit, he just proceeds to just put it in the
10 backpack.

11 Q And you're helping him because, at this point --

12 MR. MCFADDEN: Object to the leading.

13 THE COURT: Okay.

14 BY MS. MOLINA:

15 Q Are you helping him?

16 A Maybe giving him a few things and he just
17 starts putting it in the backpack.

18 Q Has he indicated to you whether or not he planned
19 to pay?

20 A Absolutely not.

21 So, yeah, I'm handing him the stuff there,
22 and I'm kind of, like, *Okay*. You know, at some point
23 I ask him, you know, if we're going to do the deal,
24 right there is what I'm asking, because he's got the
25 backpack. Right here is where he pulls the gun out

Testimony of Brian Gecy

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1 and says, *You know what this means?* I was like -- I
2 just was like, *Oh, my God.* He asked for my watch,
3 takes my phone. And then he's pointing the gun and
4 I'm trying to reason. You know, like, *Hey, man* -- he
5 asked for the wallet, and for whatever reason I said,
6 *No, you're not getting that.*

7 I'm trying to get to the truck and he
8 gets a little agitated. It seems like right here
9 he starts telling me he's going to shoot me. I'm
10 talking to him so I just get in the car, and all I
11 wanted to do is just go home.

12 Q You appear calm in that video, why is that?

13 A I've been in -- my step-dad was a police
14 officer back when he was alive when I was growing
15 up and he always taught me, you know, be calm.
16 Just don't try to do anything stupid.

17 You know, at one point in that, where I was
18 standing, there was -- when you aiming at me, there
19 was a point where I thought to myself I might have to
20 fight this guy. I decided to just keep trying to get
21 to the door. The video was pretty short. It seems
22 like to me it was a long-standing point. But I've
23 been in some altercations before when I was a kid in
24 college where I had a gun -- I had the gun. Somebody
25 broke into my house. But just always be calm.

1 I think I told him at one point, *You go your*
2 *way, I'll go my way.* I'm trying -- all my -- through
3 the whole thing, I just wanted to go home.

4 Q Did you ever think about trying to get the gun
5 away from him?

6 A At one point, I did. I mean, it was try to
7 get close proximity to him. If I was going to do
8 it, I was just going to dive into it. But it
9 didn't make sense. The more I got closer to the
10 door, the more I thought I could get into the car
11 and leave.

12 Q Were you fearful?

13 A Oh, yeah. Absolutely.

14 Q Why did you comply with his requests or demands?

15 A The watch and the phone, easy. Really didn't
16 want to give up the phone because it had a lot of
17 personal data for my business. I gave it to him,
18 but it -- he didn't stop there. When he wanted
19 more, that's when I got a little -- *No, you're not*
20 *getting it.* And that's when I figured, well, now,
21 I'm being combative. This might be an
22 altercation. But he didn't ask again for whatever
23 reason.

24 Q Were you worried about what would happen if you
25 didn't comply?

Testimony of Brian Gecy

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1 A Yes, ma'am.

2 Q And what did you think might happen?

3 A I mean, he said he was going to shoot me.

4 Q After you get in your truck and leave, where do
5 you go?

6 A I went around the block and saw three
7 gentlemen outside and pulled into their driveway.
8 That was the gentleman on the phone's address that
9 we were at, at Keans Neck. I pulled in, asked him
10 if I could use their phone. Told him I got
11 robbed. They were very helpful. One of gentlemen
12 knew me. He recognized me. He actually lived
13 there and then he was a neighbor of mine where I
14 live now.

15 Q Did law enforcement respond to where you were?

16 A Yes, ma'am.

17 Q Were you able to provide a description to them?

18 A Yes.

19 Q Do you remember how you described the person that
20 robbed you?

21 A Black male, about my height, heavyset with a
22 limp.

23 Q And were you able to tell them what he was
24 wearing?

25 A Yes, ma'am.

1 Q On scene when talking to officers, were you able
2 to provide any of the Facebook information?

3 A I didn't have my phone at the time. I called
4 my business partner who brought me my computer
5 because we were trying to log into Samsung's find
6 me, find my phone. We couldn't get in because
7 there was a two-step verification that needed to
8 be required for the phone. And then that's when I
9 started looking up all the stuff to give to the
10 officer through computer that she brought me.

11 Q And by that, you mean the Samsung --

12 A No, just the Facebook posts and stuff.

13 Q The person that you arranged to meet at the Dale
14 Community Center, was it his real name on Facebook?

15 A It was a weird name. I don't remember what
16 it was.

17 Q But it wasn't a real name?

18 A No, it wasn't.

19 Q Tell us about your phone. Was it an old phone, a
20 new phone?

21 A It was a new phone at the time. Samsung 21
22 or 22. 22.

23 Q Did it have any scratches or anything?

24 A No, ma'am. I had just gotten it probably a
25 month or two before.

Testimony of Brian Gecy

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1 Q Did it have a case on it?

2 A Yes, ma'am.

3 Q On scene, were you able to get onto Facebook?

4 A At some point, I was. Yes, ma'am.

5 Q Do you recall getting in contact with law
6 enforcement once you were able to get on Facebook?

7 A Well, the law enforcement was already there.
8 The computer came later after law enforcement was
9 there.

10 Q Did you provide the Facebook name and phone number
11 that you corresponded with?

12 A I had already been blocked out. He had
13 blocked me from the post and deleted, but I had
14 the text messages and the Facebook posts, that one
15 post, so I was able to screenshot that and give it
16 to the officers.

17 Q Did you also provide the serial numbers for your
18 phone and watch at some point?

19 A I did. I register all of my devices,
20 especially through find my Samsung and were able
21 to log into Samsung's account and pull the EIN
22 number and the serial numbers.

23 Q The day after the incident, did you meet with law
24 enforcement?

25 A I did.

Testimony of Brian Gecy

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1 Q And do you know where you met with them?

2 A At the old Publix on Lady's Island, which is
3 now Harris Teeter.

4 Q I'm going to hand you State's 11-A and 11-B. If
5 you would just take, say, look at that. Do you
6 recognize the items that I handed you?

7 A Yes, ma'am. They are the line-up that the
8 officer gave me.

9 MR. MCFADDEN: Judge, I renew my pretrial
10 objection and add that it just increases the
11 suggestiveness and now it's being presented again
12 to the victim.

13 THE COURT: Noted for the record.
14 Subject to my prior ruling, you can go ahead.

15 BY MS. MOLINA:

16 Q Is that the line-up you did at the old Publix?

17 A Yes, ma'am.

18 Q And on State's 11-B, is that your signature?

19 A Yes, ma'am.

20 Q And on State's 11-A, are those your initials?

21 A Yes, ma'am.

22 Q Prior to seeing any of those pictures, did the
23 officer give you any kind of instructions?

24 A Yes, ma'am, he did.

25 Q And then, afterwards, were you able to select a

1 picture?

2 A Yes, ma'am.

3 Q What number did you select?

4 A Number 2.

5 Q I'm just going to take those back from you. Thank
6 you.

7 Prior to this incident, had you ever met the
8 defendant before?

9 A No, ma'am. I had not.

10 Q And it occurred during the daytime?

11 A Yes, ma'am. Mid-morning.

12 Q The officer, the next day when you saw the
13 line-up, did he suggest anybody that you should pick
14 in the line-up?

15 A No, ma'am, he did not.

16 Q When you made your selection, did you indicate a
17 degree of certainty?

18 A Yes, ma'am, I did.

19 Q And what was that?

20 A One hundred percent.

21 Q Do you see the person who robbed you on
22 March 19, 2022, at the Dale Community Center?

23 A Yes, ma'am.

24 MR. MCFADDEN: Same objection.

25 THE COURT: Noted for the record.

1 BY MS. MOLINA:

2 Q Can you identify something that he's wearing?

3 A Salmon shirt. Salmon-colored shirt.

4 MS. MOLINA: Please let the record
5 reflect the witness has identified the
6 defendant.

7 THE COURT: Okay.

8 BY MS. MOLINA:

9 Q Did you get your phone back or your watch, or
10 anything?

11 A We got the phone back, but we did not get the
12 watch back. The watch has never been found.

13 Q Did you get the PlayStation back?

14 A No, I have not.

15 MS. MOLINA: Court's indulgence.

16 BY MS. MOLINA:

17 Q When he was pointing what appeared to be a gun at
18 you, did you believe that to be a real gun?

19 A Yes, ma'am, I did.

20 Q No further questions. Please answer any that the
21 defense has.

22 THE COURT: Mr. McFadden.

23 MR. MCFADDEN: Thank you, Judge. May it
24 please the Court?

25 THE COURT: Yes, sir.

Testimony of Brian Gecy
CROSS-EXAMINATION

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BY MR. MCFADDEN:

Q Sir, can you help me pronounce your last name?

Gecy?

A Gecy.

Q Gecy?

A Yes, ma'am -- yes, sir.

Q Mr. Gecy, just to dovetail right into the last question you answered on direction examination: When the subject pointed the gun at you, you believed it to be a real gun. In fact, you were able to identify it, correct?

A Repeat that again.

Q You were able to identify the gun as a Smith & Wesson 9mm.

A That's what I assumed it to be.

Q Okay. And that's what you mentioned to the 911 dispatcher, right?

A Actually, I described the gun just in color and shape.

Q Do you disagree that you might have told the 911 dispatcher that it was a Smith & Wesson 9mm?

A I told him it was an automatic gun that looked like a 9mm.

Q Okay. And you said you're familiar with firearms,

1 correct?

2 A Somewhat, yes.

3 Q You just hadn't been -- at least I think you
4 mentioned on direct, from being in a previous
5 situation but you had the gun.

6 A It was a revolver.

7 Q Oh, a revolver.

8 A Yes.

9 Q Okay.

10 Sir, do you remember -- you discussed on
11 direct examination your description that you were able
12 to provide initially to law enforcement.

13 A Yes, sir.

14 Q Do you remember mentioning that you thought he was
15 in his mid-40s, the person who had robbed you?

16 A Probably could be older.

17 MR. MCFADDEN: Court's indulgence for
18 just a moment.

19 THE COURT: Okay.

20 BY MR. MCFADDEN:

21 Q Thank you, Mr. Gecy.

22 MR. MCFADDEN: I don't have anything
23 further.

24 THE COURT: Anything further?

25 MS. MOLINA: Nothing further.

Testimony of Austin McKenzie

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1 THE COURT: You may step down, sir.

2 Thank you. Any objection to this witness being
3 excused if he chooses to?

4 MR. MCFADDEN: None from the defense.

5 MS. MOLINA: None.

6 THE COURT: All right. No objection.

7 MS. MOLINA: The State calls Austin
8 McKenzie.

9 THE CLERK: Raise your right hand. Do
10 you solemnly swear or affirm to truthfully answer
11 all questions asked of you by this Court so help
12 you God?

13 THE WITNESS: I do.

14 THE CLERK: Thank you. You can have a
15 seat right here. Say your first name and last
16 name for the Court and spell your last name.
17 Thank you.

18 THE WITNESS: Austin McKenzie. Last name
19 M-c-k-e-n-z-i-e.

20 WHEREUPON:

21 AUSTIN MCKENZIE,
22 after having been sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. MOLINA:

25 Q Good morning. Where do you work?

Testimony of Austin McKenzie

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1 A I'm currently in Texas. I work for a small
2 town, Burnet, Texas, Burnet Police Department.

3 Q Is it okay if I call you Officer McKenzie?

4 A Yes.

5 Q Where did you work before the Burnet Police
6 Department?

7 A I worked here at the Beaufort County
8 Sheriff's Office.

9 Q About how long have you been with the Burnet
10 Police Department?

11 A I've been there since January of 2023.

12 Q And how long were you at the Beaufort County
13 Sheriff's Office?

14 A I was here September of 2020 until January of
15 '23.

16 Q So in 2022, you were working for the sheriff's
17 office here?

18 A Yes.

19 Q Were you working on March 19, 2022?

20 A Yes.

21 Q And did you receive a call about an armed
22 robbery?

23 A Yes.

24 Q And did you respond?

25 A Yes.

Testimony of Austin McKenzie

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1 Q Where did you respond?

2 A We responded [REDACTED] Keans Neck, which is where
3 the victim was at. Once we responded there and
4 spoke to him, we were advised that the incident
5 location was the community center, which is
6 15 Community Center.

7 Q Is that in Beaufort County?

8 A It is.

9 Q Did you -- did the victim tell you what
10 happened?

11 A Yes.

12 Q What did he say?

13 MR. MCFADDEN: Object to the hearsay.
14 It's cross and testimonial here of 911.

15 MS. MOLINA: Presence sense impression,
16 excited utterance, and the victim just
17 testified.

18 THE COURT: Okay. Exception. Go
19 ahead.

20 THE WITNESS: So we responded. The
21 victim stated that he was robbed at gunpoint at
22 the community center. And once I got that
23 information, we went ahead and responded to the
24 community center to start setting up a perimeter
25 for the -- to try to locate the suspect.

1 BY MS. MOLINA:

2 Q Did he tell you the items he was trying to sell?

3 A Yes. He was trying to sell a blue and gold

4 PlayStation, also a controller for the

5 PlayStation, and I believe it was three games.

6 They were Call of Duty, Fallout, and Grand Theft

7 Auto.

8 Q Besides a description, did the victim tell you

9 anything about -- anything else about the incident?

10 A He gave me a description of the male that

11 robbed him at gunpoint. He said the male was a

12 black male, a little shorter than himself, a

13 little chubby, wearing a black hoodie, black sweat

14 pants, and a black backpack.

15 Q Did he describe how he walked?

16 A He said he had a short limp, and then also he

17 had some scruff on his face.

18 Q Did he advise you-all about the direction that the

19 defendant came in and met him and left through?

20 A He did. He was on the phone with the

21 suspect, and he told him that he was there, and

22 that the suspect stated he was going to be coming

23 through the cut through from the -- I believe it's

24 the north side of the building through the

25 woods.

Testimony of Austin McKenzie

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1 Q Did he tell you about the gun?

2 A He did. I asked to describe the gun, if it
3 was two-tone, one-tone. He said it was a one-tone
4 gray or black pistol.

5 Q Did he indicate whether or not it was pointed at
6 him?

7 A He did. He stated that the male pulled it
8 out from his middle back area and pointed it
9 towards him. And when he did that, he stated,
10 "You know what this is?"

11 Q While you were on scene, was the victim able to
12 get into his Facebook?

13 A Not while I was on scene. I believe it was
14 after the fact.

15 Q And did the victim provide a Facebook name and
16 phone number?

17 A So after the fact, after we cleared, yes. He
18 contacted the BCSO, the sheriff's office, and
19 provided a Facebook name of Quitbiting Pullup.

20 Q What did you do with that information?

21 A The information was provided to
22 Investigator Byrd to attempt to locate the
23 Facebook and identify the pictures from the
24 Facebook.

25 Q As a result of that investigation, did you learn

Testimony of Austin McKenzie

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1 the identity of the person that robbed the victim?

2 A Yes.

3 MR. MCFADDEN: Judge, I'd like to renew
4 my pretrial objection at this time.

5 THE COURT: Thank you. Noted for the
6 record.

7 BY MS. MOLINA:

8 Q What did you do once you learned the identity?

9 A So we got the identity. It came back to a
10 Jonathan Robinson. He had an address of, I
11 believe, it's [REDACTED] Wimbee Trailer Court, which is
12 just about 200 feet north of the community center
13 down the road.

14 Q Okay. And did you get a birthday?

15 A It would have been on his name screen, but I
16 do not remember it.

17 Q Okay. Once you got the identity, what did you do
18 with it related to the victim?

19 A Once I got the identity, the information was
20 passed on to our intel department and they were
21 able to send it off to get a photo line-up done.

22 MR. MCFADDEN: I renew my objection at
23 this time to this whole line of questioning.

24 THE COURT: Thank you. Noted for the
25 record, and based on my previous rulings.

Testimony of Austin McKenzie

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1 BY MS. MOLINA:

2 Q Did you meet with the victim with the line-up?

3 A I did. It was the next day. I believe it
4 was on the 20th. I met up with him and explained
5 the process and had him read it and sign it.

6 (STATE EXH. 10, Line-up, was marked for
7 identification.)

8 (STATE EXH. 11-A, Line-up, was marked for
9 identification.)

10 (STATE EXH. 11-B, Line-up Instructions, was
11 marked for identification.)

12 BY MS. MOLINA:

13 Q Okay. I'm going to hand you State's Exhibit 11-A
14 and 11-B and State's Exhibit 10. If you would, just
15 look at those items for me. Do you recognize those
16 items?

17 A I do.

18 Q And as to State's Exhibit 10, how do you recognize
19 that?

20 A This is going to be the body cam video from
21 the photo line-up the day that I met with the
22 victim.

23 Q Is that your body cam?

24 A Yes, ma'am.

25 Q Is that a fair and accurate depiction?

1 A Yes.

2 Q And how do you know that's your body cam?

3 A Just from --

4 Q Did you review it?

5 A I did review it, yes.

6 Q Did you sign it?

7 A Yes.

8 Q Now, for State's number 11-B, do you recognize
9 that item?

10 A I do.

11 Q And how do you recognize that item?

12 A By my initials on it.

13 Q Okay. State's Exhibit 11-A, do you recognize
14 that?

15 A I do.

16 Q And are State's Exhibits 10, 11-A, and 11-B fair
17 and accurate depictions of the line-up that you
18 presented to the victim and your body cam?

19 A Yes.

20 MS. MOLINA: State moves State's Exhibit
21 11-A and B and 10 into evidence.

22 THE COURT: Subject to your prior
23 objection.

24 MR. MCFADDEN: Yes, ma'am. Thank you.

25 THE COURT: They're in evidence. Yes,

Testimony of Austin McKenzie

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1 thank you.

2 MS. MOLINA: May I have permission to
3 publish?

4 THE COURT: You may.

5 (STATE EXH. 10, Line-up, was entered into
6 evidence.)

7 (STATE EXH. 11-A, Line-up, was entered into
8 evidence.)

9 (STATE EXH. 11-B, Line-up Instructions, was
10 entered into evidence.)

11 (Body cam video played.)

12 BY MS. MOLINA:

13 Q State Exhibit 11-B, is this what you read to him
14 there --

15 A Yes.

16 Q -- in the body cam we just watched?

17 A Yes.

18 Q Can you read that again, please?

19 A "You will be asked to look at a group of
20 photographs. The fact that the photographs are
21 shown, should not influence your judgment. You
22 should not conclude or guess that the photographs
23 contain the picture of the person who committed
24 the crime. You are not obligated to identify
25 anyone. It is just as important to free innocent

1 persons from suspicion as to identify guilty
2 parties. Please do not discuss this case with
3 other witnesses nor indicate in any way that you
4 have identified someone."

5 Q Okay. And State's Exhibit 11-A, is this the
6 line-up that presented to the victim?

7 A Yes.

8 Q Which person did he indicate was the person that
9 robbed him?

10 A He circles number 2, which is the suspect.

11 Q Which is who?

12 A Jonathan Robinson.

13 Q And we watched the video, but did you influence
14 his selection in any way?

15 A No.

16 Q Did you show him any pictures of the defendant
17 prior to the line-up?

18 A No.

19 MS. MOLINA: Court's indulgence.

20 BY MS. MOLINA:

21 Q When you got the information related to the phone,
22 what did you do with that?

23 A The phone and the watch both were entered
24 into NCIC.

25 Q As what?

Testimony of Austin McKenzie

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1 A As stolen.

2 Q And are those entered into through their serial
3 number?

4 A They are.

5 Q I have no further questions. Please answer any
6 the defense has.

7 MR. MCFADDEN: May it please the Court?

8 THE COURT: Yes.

9 CROSS-EXAMINATION

10 BY MR. MCFADDEN:

11 Q Officer McKenzie, good morning.

12 Officer McKenzie, just to talk about this
13 line-up, this photographic line-up here. You said you
14 talked to -- it's Mr. Gecy, right, at the scene?

15 A Yes.

16 Q Where you responded to him. And he provided you a
17 physical description of the suspect who robbed him?

18 A Yes.

19 Q Part of that description is that the suspect was
20 overweight?

21 A I believe the description was chubby.

22 Q Chubby, all right.

23 Just taking a look here. I'll pass you back
24 up --

25 MR. MCFADDEN: May I approach the

1 witness, Judge?

2 THE COURT: You may.

3 MR. MCFADDEN: 11-A, is that what this
4 says?

5 THE COURT REPORTER: Yes.

6 BY MR. MCFADDEN:

7 Q 11-A, that's that photo line-up, right?

8 A Yes.

9 Q So all the faces around, the one that the alleged
10 victim circled, you would agree with me those are all
11 very trim faces. Would you agree with me in that
12 characterization?

13 A One could say so.

14 Q Thank you. I'll take it back.

15 Then just briefly, Officer McKenzie, about
16 the -- about the alleged gun, Mr. Gecy told you the
17 suspect -- the subject had a gun, right?

18 A Yes.

19 Q He described it as a gray or black pistol?

20 A Yes.

21 Q He described to you exactly what he did with the
22 gun, right?

23 A Yes.

24 Q During the course of the incident?

25 A Yes.

Testimony of Austin McKenzie

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1 Q Okay.

2 MR. MCFADDEN: Thank you. I don't have
3 anything further.

4 THE COURT: Anything further?

5 MS. MOLINA: No redirect.

6 THE COURT: All right. You may step
7 down. Any objection to this witness being
8 excused?

9 MS. MOLINA: No objection.

10 MR. MCFADDEN: None from me.

11 THE COURT: You're excused, sir. Thank
12 you.

13 Do you want to take a quick break? Is now a
14 good time?

15 MS. MOLINA: Yes, ma'am.

16 THE COURT: Ladies and gentlemen of the
17 jury, we're going to take just a quick morning
18 break. I need to remind you, do not discuss this
19 case. It wouldn't be appropriate to do so.
20 Refresh yourselves. We're going to bring you
21 right back here. I expect to run until roughly
22 one o'clock, which is normally when we break for
23 lunch, unless anyone is very, very hungry and
24 wants an earlier break.

25 But, again, don't discuss this case and

Testimony of Austin McKenzie

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1 we'll bring you right back in. Okay? Thank you.

2 (Jury exits the courtroom at 11:09 a.m.)

3 THE BAILIFF: Jury is clear, Your Honor.

4 THE COURT: Thank you, Marshall.

5 Solicitor, how many witnesses do you have
6 or intend to call?

7 MS. MOLINA: What number are we on?

8 THE COURT: We just finished four.

9 MS. MOLINA: I think I'm almost
10 halfway.

11 THE COURT: Okay. I just want to know if
12 you were calling all these people or not. Okay,
13 sounds good.

14 MS. MOLINA: I not calling 22. I'm not
15 calling 22 people.

16 THE COURT: Okay. We'll be at ease for
17 about ten minutes or so.

18 (A break was taken from 11:10 a.m. to 11:45
19 a.m.)

20 THE BAILIFF: All rise. Court is back in
21 session.

22 THE COURT: State ready?

23 MS. MOLINA: Yes, ma'am.

24 THE COURT: Defense ready?

25 MR. MCFADDEN: Yes, Your Honor.

Testimony of John Keener

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1 THE COURT: Let's bring them in.

2 (Jury enters the courtroom at 11:45 a.m.)

3 THE COURT: Welcome back, ladies and

4 gentlemen.

5 All right. Call your next witness, please.

6 MS. MOLINA: The State calls John

7 Keener.

8 THE CLERK: Raise your right hand for me.

9 THE WITNESS: Okay.

10 THE CLERK: Do you solemnly swear or
11 affirm to truthfully answer all questions asked of
12 you by this court so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Have a seat right here. Say
15 your first name and last name for the Court and
16 spell your last name. Thank you.

17 THE WITNESS: My name is John Keener,
18 K-e-e-n-e-r.

19 WHEREUPON:

20 JOHN KEENER,

21 after having been sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. MOLINA:

24 Q Where do you work?

25 A I currently work for State of South Carolina,

1 but previously I worked for the Beaufort County
2 Sheriff's Office for about a decade.

3 Q In what capacity do you work for the State of
4 South Carolina?

5 A I work for Fish & Game. I'm a game warden.

6 Q DNR?

7 A Yes, ma'am.

8 Q And prior to working at DNR, where did you say you
9 worked?

10 A I was a deputy for the Beaufort County
11 Sheriff's Office.

12 Q For how long?

13 A About a decade.

14 Q How long have you been with DNR?

15 A About a year and a half now.

16 Q On March 19th of 2022, were you working for the
17 sheriff's office?

18 A I was.

19 Q Did you have contact with Brian Gecy that day?

20 A I did.

21 Q Can you please explain the contact that you had
22 with him?

23 A It was early in the evening. I believe I was
24 coming on the night shift and I got a phone
25 call -- or call from dispatch saying that there

Testimony of John Keener

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1 was a case follow-up and I needed to contact
2 somebody or a victim by phone.

3 I ended up calling Mr. Gecy and he advised
4 that he had the Facebook profile name and a phone
5 number that he wanted to add to the report, that it
6 was the suspects that he had the transaction with over
7 Facebook and over phone calls. He provided me with
8 the Facebook name and the phone number. I then took a
9 supplement to add to the original report to add for
10 the investigator.

11 I then went onto Facebook and typed in the
12 user name. It was a very distinct user name. It was
13 different than a regular, you know, "John Smith" name.
14 It was Getquitting --

15 Q Would it help --

16 A Yes, ma'am. To help myself real quick.

17 Q I am handing you your supplement, and will you
18 just take a look at that and let us know if that
19 refreshes your recollection?

20 A It does. So the victim had given the name,
21 it's Quitbiting Pullup was the name of the suspect
22 that he had done the transaction with on Facebook,
23 and he also gave the phone number that he
24 contacted the suspect with to meet up with him.

25 I then --

1 Q What's that phone number?

2 A It is [REDACTED]-8420. Mr. -- the victim
3 wasn't able to provide any of that because, I
4 believe, his phone and some other belongings had
5 been stolen during the incident. But it was later
6 that evening when he called the sheriff's office
7 back to add the new information, he was able to go
8 back -- I guess on Facebook.

9 After the victim gave me that information, I
10 went onto Facebook and typed in the user name -- the
11 first name was Quitbitten -- or quitbiting, and then
12 the last name would be Pullup. I typed that in which
13 came back with a picture of the defendant.

14 MR. MCFADDEN: Same objection as to the
15 identification, Judge.

16 THE COURT: Noted for the record. Thank
17 you.

18 BY MS. MOLINA:

19 Q The Facebook profile you saw, do you see that
20 person in the courtroom today?

21 A I do.

22 Q And can you described something he is wearing?

23 A He is wearing a peach shirt.

24 MS. MOLINA: Please let the record
25 reflect the witness has identified the

Testimony of John Keener

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1 defendant.

2 THE COURT: Thank you.

3 THE WITNESS: Okay. After pulling up
4 that Facebook profile, I was able to locate -- or
5 locate a picture of the suspect's Facebook profile
6 and a picture of him sitting here before us today.

7 BY MS. MOLINA:

8 Q Did that picture appear to be consistent with the
9 description provided by the victim?

10 A It was. The victim told me that the suspect
11 was heavysset or husky built, was a black male that
12 had a piercing in one of his ears which matched
13 the picture on Facebook also.

14 I then copied, like, the Facebook URL link
15 and added that to my supplement for investigations so
16 I could follow up with that later on to serve the
17 subpoena to get the information associated with
18 that.

19 Q What URL is that?

20 A It's a long one. It's
21 [https://www.facebook.com/profile.PHP?ID=1000697474](https://www.facebook.com/profile.PHP?ID=100069747439546)
22 39546.

23 Q Thank you. I have no further questions. Please
24 answer any the defense has.

25 MR. MCFADDEN: Court's indulgence just a

1 moment.

2 THE COURT: Yes.

3 MR. MCFADDEN: Nothing for this witness.

4 Thank you.

5 THE COURT: All right. You may step
6 down, sir. Thank you.

7 THE WITNESS: Yes, ma'am. Thank you.

8 THE COURT: I appreciate it.

9 Call your next witness.

10 MS. MOLINA: And may he be excused?

11 THE COURT: Yes, you may.

12 THE WITNESS: Okay, thank you.

13 MS. MOLINA: State calls Sebrina Brown.

14 THE COURT: Right up here, Miss Brown.

15 THE CLERK: Will you raise your right
16 hand for me? Do you solemnly swear or affirm to
17 truthfully answer all questions asked of you by
18 this Court so help you God?

19 THE WITNESS: I do.

20 THE CLERK: Thank you. Have a seat right
21 here. Say your first and last name and spell your
22 last name for the Court.

23 THE WITNESS: Sebrina Brown, B-r-o-w-n.

24 WHEREUPON:

25 SEBRINA BROWN,

Testimony of Sebrina Brown

1 after having been sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. MOLINA:

4 Q Good morning, ma'am. Where do you work?

5 A I'm working on Cat Island. I'm a caregiver,
6 so I'm working with a patient.

7 Q Are you also a minister?

8 A Yes, I am.

9 Q Are you married?

10 A Yes, I am.

11 Q What does your husband do?

12 A He's a -- he does -- well, he works in
13 Bluffton. Maintenance.

14 Q Is he a pastor?

15 A Yes, he is.

16 Q In 2022, were you living at [REDACTED] Wimbee Trailer
17 Court?

18 A Yes.

19 Q And who lived with you there?

20 A Me and my husband and my daughter, and my son
21 sometimes.

22 Q What's your son's name?

23 A Jonathan Robinson.

24 Q Do you see your son in the courtroom today?

25 A Yes.

1 Q What is he wearing?

2 A It looks like a red shirt.

3 MS. MOLINA: Please let the record
4 reflect the witness has identified the
5 defendant.

6 BY MS. MOLINA:

7 Q Do you recall getting a phone call about your son
8 from Investigator Todd Duncan on March 25th, 2022?

9 A No. I don't recall the time or the date.

10 Q Do you recall getting a phone call from him around
11 that time?

12 A I do recall a phone call from Mr. Duncan.

13 Q And you-all discussed -- or do you recall what you
14 discussed?

15 A No, I don't.

16 Q Did you discuss where your son was living and
17 whether he worked or drove, do you recall?

18 A No, I don't recall.

19 Q Do you recall law enforcement coming to your house
20 on March 25th, 2022?

21 A I do recall them coming to my house. The
22 date, I don't recall.

23 Q But around that time?

24 A Yes.

25 Q Okay. And do you recall speaking to

Testimony of Sebrina Brown

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1 Investigator Duncan when they came by about your
2 son?

3 A I recall speaking to someone. But the name,
4 I don't recall.

5 Q Okay. But somebody from law enforcement?

6 A Yes.

7 Q About your son?

8 A Yes.

9 Q Do you recall what you guys talked about?

10 A No, I don't recall.

11 Q Do you recall talking about which room your son
12 stayed in?

13 A I don't recall.

14 Q Do you recall telling Investigator Duncan where
15 your son was on March 19th, 2022, the area he was
16 in?

17 A No, I don't recall that.

18 Q Do you recall Investigator Duncan showing you
19 surveillance pictures and asking if the person in the
20 picture was your son?

21 A I recall seeing a picture.

22 Q Okay. And do you recall identifying the person in
23 the picture?

24 MR. MCFADDEN: Object to lack of
25 foundation here.

Testimony of Sebrina Brown

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1 THE WITNESS: No, I don't.

2 THE COURT: Okay.

3 MS. MOLINA: Foundation for what?

4 MR. MCFADDEN: Asking about a picture.

5 MS. MOLINA: A surveillance picture that
6 law enforcement showed her.

7 MR. MCFADDEN: I just haven't seen her --
8 the witness hasn't seen it.

9 MS. MOLINA: I was just asking if she
10 recalled seeing it.

11 THE COURT: Okay.

12 THE WITNESS: No, I don't.

13 THE COURT: You need to show it to her,
14 okay?

15 BY MS. MOLINA:

16 Q You don't recall seeing a picture at all, or you
17 don't recall who was in it?

18 A I don't recall.

19 (STATE EXH. 34, Photo, was marked for
20 identification and entered into evidence.)

21 (STATE EXH. 35, Photo, was marked for
22 identification and entered into evidence.)

23 BY MS. MOLINA:

24 Q Okay. Miss Brown, I'm going to hand you State's
25 Exhibit 34 and 35. Do you recognize those pictures?

Testimony of Sebrina Brown

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1 A No, I don't.

2 Q Were those the pictures that Investigator Duncan
3 showed you?

4 A I'm not sure.

5 Q You don't remember?

6 A No.

7 Q But do you remember him showing you pictures?

8 A Yes.

9 Q Okay. But you don't remember what you said in
10 response to those pictures?

11 A No.

12 Q Thank you, ma'am.

13 I have no further questions. Please
14 answer any the defendant may have.

15 A Okay.

16 MR. MCFADDEN: Court indulgence just a
17 moment. I'd like to confer with co-counsel here.

18 No questions.

19 THE COURT: Okay. You may step down.

20 Thank you.

21 MS. MOLINA: And may she be excused?

22 THE COURT: Any objection to her being
23 excused?

24 MR. MCFADDEN: None. Thank you.

25 THE COURT: Miss Brown, you're excused.

Testimony of Todd Duncan

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1 THE WITNESS: Thank you.

2 Call your next witness.

3 MS. MOLINA: State calls Todd Duncan.

4 THE CLERK: Do you solemnly swear or
5 affirm to truthfully answer all questions asked of
6 you by this Court so help you God?

7 THE WITNESS: I do.

8 THE CLERK: Okay. Have a seat right
9 here. Say your first and last name and spell your
10 last name for the Court.

11 THE WITNESS: Todd Duncan. Duncan is
12 D-u-n-c-a-n.

13 WHEREUPON:

14 TODD DUNCAN,
15 after having been sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. MOLINA:

18 Q Where do you work, Investigator Duncan?

19 A I work for the Beaufort County Sheriff's
20 Office in the northern investigations division.

21 Q How long have you been with the sheriff's
22 office?

23 A Approximately 14 years, I believe.

24 Q How long have you been in investigations?

25 A About nine of those 14 years.

Testimony of Todd Duncan

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1 Q Were you working in investigations in March of
2 2022?

3 A I was.

4 Q Were you assigned to the armed robbery case that
5 occurred on March 19th, 2022?

6 A Yes, ma'am.

7 Q Where did that armed robbery occur?

8 A It occurred at 15 Community Center Road,
9 which is the Dale Community Center.

10 Q And is that in Beaufort County?

11 A Yes, ma'am.

12 Q What did you do when you were assigned the case?

13 A Well, the first thing I do when I'm assigned
14 a case is I read all the original reports that the
15 responding deputies took. I did not respond to
16 the initial call. I was notified of it that
17 weekend; however, the deputies had it in hand and
18 I was on a different case at the time. So once I
19 got the original report, I just reviewed
20 everything and learned everything I could.

21 Q And after you reviewed everything, what did you
22 do -- or what information did you have at that point?

23 A So, at this point, I had the information that
24 we have had the suspect's name as Jonathan
25 Robinson. I had spoken with the victim, got his

Testimony of Todd Duncan

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1 account of what happened. Knew the Facebook name
2 at this point as well, too. I knew there was a
3 photo line-up done.

4 Q Did you have an address?

5 A So I looked up Mr. Robinson's address in our
6 system. It came back to [REDACTED] Wimbee Trailer Court
7 which is in Dale. I think I Google mapped it. It
8 was, like, less than a quarter mile away from
9 where the incident occurred.

10 Q And did you see his Facebook profile picture?

11 A I did.

12 Q Did you compare that to anything?

13 A Yeah. So, obviously, I had the profile
14 picture on Facebook, you know, his public picture
15 that has the name and everything by it. I
16 compared it to the picture, like a driver's
17 license picture, already in our system.

18 MR. MCFADDEN: I renew my pretrial
19 objection at this time.

20 THE COURT: Thank you. Noted.

21 Yes, go ahead.

22 THE WITNESS: So I compared the pictures
23 together and, you know, physically saw that it's
24 the same person.

25 BY MS. MOLINA:

Testimony of Todd Duncan

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1 Q A known picture of Jonathan Robinson?

2 A Correct.

3 Q Did you get the surveillance from the community
4 center?

5 A I did. So I contacted the county IT
6 department, got the video surveillance, and
7 reviewed that.

8 Q And when you reviewed it, what did you learn from
9 that?

10 A Yes. Any time we get a video, we watch it
11 multiple times. Slow it down, go frame by frame,
12 try and pick out any details we can as far as,
13 like, suspect description, clothing. Verify that
14 it's, you know, what the victim said that
15 happened. Get any details we possibly can.

16 (STATE EXH. 34, Photo, was marked for
17 identification.)

18 (STATE EXH. 35, Photo, was marked for
19 identification.)

20 BY MS. MOLINA:

21 Q I'm showing you State's Exhibit 34 and 35. What
22 are those? Or do you recognize them?

23 A Yes. So these are still shots of the video
24 surveillance.

25 Q Okay. And are those the still shots that you had

1 after reviewing the surveillance video?

2 A Yes, ma'am.

3 Q And after reviewing the surveillance, what did you
4 do?

5 A So this is, you know, reviewing the
6 surveillance, you know, stopping the footage at a
7 certain spot, trying to zoom in, get the best
8 picture we can possible. Compare this as well to
9 the Facebook picture that we had of our suspect.
10 Verified that it's that same person that's on the
11 Facebook profile. Verified it matched the picture
12 of the name that we had as well, too, at that
13 point.

14 Q And did you make any requests for information --
15 for more information from Facebook?

16 A So I put together a search warrant for
17 Facebook, trying to get the right image between
18 you-all's victim and the suspect at this point
19 since we know that they were there communicating
20 through Facebook to do this transaction. So we
21 wanted to get those records showing that
22 transaction as well, too.

23 Q So you got a search warrant for the defendant's
24 Facebook and for the victim's?

25 A So the victim's, it was the group that he was

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1 in. So the actual post of him trying to sell the
2 object and any conversations back and forth
3 between him and the suspect.

4 Q And then the defendant's based on that URL?

5 A Yes, ma'am.

6 Q Did you also get a search warrant for his known
7 address?

8 A I did. So, at this point, there was probable
9 cause to make an arrest. So I had an arrest
10 warrant for Mr. Robinson already. However, being
11 that this was an armed robbery call and the victim
12 was out on the property and we knew the suspect
13 lived close by, we got a search warrant for the
14 residence trying to retrieve the property.

15 Q And do you recall what day you got the search
16 warrant?

17 A Yes, ma'am. I believe it was on the 24th.
18 So this happened on a Saturday, I believe, the
19 19th. So I would pick the case up on that Monday
20 and then -- to review the video and go through
21 everything for a few days, and then we got the
22 search warrant for the residence.

23 Q Would it refresh your recollection to take a look?

24 A Yes. This is a copy of the search warrant.
25 It says the 25th. So, I'm sorry. I'm off a day.

1 So it was on the 25th.

2 Q And did you go to ■■■ Wimbee Trailer Court on the
3 25th?

4 A Yes, ma'am.

5 Q And what did you do there?

6 MR. MCFADDEN: Judge, I'd like to raise
7 my objection in my pretrial for the search
8 warrant.

9 THE COURT: Thank you. Noted for the
10 record.

11 THE WITNESS: So I had this search
12 warrant in hand. I had the arrest warrant in
13 hand. Before I did anything, I parked down the
14 road and I kind of watched the residence for a
15 little bit to see if I saw the suspect nearby.

16 I eventually did see him walk in front of
17 the house. I also spoke to the suspect's mother
18 over the telephone, told her how I wanted to speak
19 to her son about an incident that occurred down
20 the road.

21 BY MS. MOLINA:

22 Q When you spoke to his mother, what did she say in
23 that call?

24 MR. MCFADDEN: I'm going to object to
25 hearsay. If she's hoping to establish any sort of

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1 inconsistent statements, I think that foundation
2 needs to be laid.

3 MS. MOLINA: 613(b), she didn't recall
4 what she said in her phone conversation with
5 Investigator Duncan.

6 THE COURT: Okay. You can go ahead.

7 THE WITNESS: So I explained briefly
8 about the case and what it was. She told me that
9 she was, you know, a minister. Her husband was a
10 pastor. She told me that her son was in that area
11 on that day. She didn't know exactly what he was
12 doing. I, at that point --

13 BY MS. MOLINA:

14 Q Going back to the phone call, did she confirm that
15 he lived at ■ Wimbee with her?

16 A She did.

17 Q And did she indicate whether he worked or drove?

18 A She confirmed he did not drive, and I don't
19 recall if she even mentioned if he worked at that
20 point.

21 Q Okay. And so back -- you were surveilling. What
22 did you see while you were surveilling?

23 A So I parked a decent distance away. I would
24 say, you know, maybe almost a football field away.
25 I saw Mr. Robinson walk in the front of the mobile

1 home.

2 Q And what did you do next?

3 A So, at that point, since I had arrest
4 warrants for him, I tried to make contact. By the
5 time I got out there, I didn't have a visual on
6 him anymore. I had to drive up a little bit and
7 go around through the driveway, so I assumed he
8 was inside the residence. Seeing that, you know,
9 he was just involved in an armed robbery with a
10 violent act with a handgun, I didn't go inside the
11 house. I called for other units to come assist
12 me, so we can, you know, safely try to apprehend
13 him.

14 Q And were you able to determine whether or not he
15 was in the house?

16 A I assumed he was inside of the house there.
17 So we got the search warrant. We had other units
18 come. We, you know, put up a perimeter in the
19 area and we eventually called our SWAT team as
20 well, too, just because any time we have a suspect
21 with a violent, dangerous warrant and we think we
22 know where they're at it's a lot safer to have the
23 proper resources and everything to try and
24 apprehend this person. So we had the SWAT team
25 respond and clear the residence, and he was not

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1 located inside.

2 Q And after the house was clear, what did you-all
3 do?

4 A So after the residence was clear, like
5 there's no threats or anything, that's when we
6 executed the actual search warrant. I also spoke
7 with Miss Brown in person again at the
8 residence.

9 Q Okay. I'm going to hand you what's been marked as
10 State's Exhibits 12 --

11 MR. MCFADDEN: While she's counting, my
12 objection will be to renew my initial one at
13 pretrial.

14 THE COURT: Thank you. Noted for the
15 record.

16 (STATE EXH. 12, Photo, was marked for
17 identification.)

18 (STATE EXH. 13, Photo, was marked for
19 identification.)

20 (STATE EXH. 14, Photo, was marked for
21 identification.)

22 (STATE EXH. 15, Photo, was marked for
23 identification.)

24 (STATE EXH. 16, Photo, was marked for
25 identification.)

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1 (STATE EXH. 17, Photo, was marked for
2 identification.)

3 (STATE EXH. 18, Photo, was marked for
4 identification.)

5 (STATE EXH. 19, Photo, was marked for
6 identification.)

7 (STATE EXH. 20, Photo, was marked for
8 identification.)

9 (STATE EXH. 21, Photo, was marked for
10 identification.)

11 (STATE EXH. 22, Photo, was marked for
12 identification.)

13 (STATE EXH. 23, Photo, was marked for
14 identification.)

15 (STATE EXH. 24, Photo, was marked for
16 identification.)

17 (STATE EXH. 25, Photo, was marked for
18 identification.)

19 (STATE EXH. 26, Photo, was marked for
20 identification.)

21 (STATE EXH. 27, Photo, was marked for
22 identification.)

23 (STATE EXH. 28, Photo, was marked for
24 identification.)

25 (STATE EXH. 29, Photo, was marked for

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1 identification.)

2 (STATE EXH. 30, Photo, was marked for
3 identification.)

4 BY MS. MOLINA:

5 Q State's 12 through 30, if you would just take a
6 look and tell me if you recognize these pictures.

7 A Yes, ma'am.

8 Q Do you recognize those?

9 A I do.

10 Q And what are those pictures of?

11 A So any time we do a search warrant, we always
12 take photographs before we begin, including, you
13 know, we'll start with the exterior like a 360
14 around the residence, and then we'll also do the
15 same thing inside. So before we search anything,
16 there's photographs of everything.

17 Q So those are pictures from your search?

18 A Yes, ma'am.

19 Q And are they a fair and accurate depiction of the
20 search that you did on ■ Wimbee Trailer on March
21 19th, 2022?

22 A They are.

23 MS. MOLINA: At this time, State moves
24 into evidence State's Exhibits 12 through 30, and
25 also 34 and 35.

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1 THE COURT: Without objection?

2 MR. MCFADDEN: As to those two, no. As
3 to the ones from the search warrant, what I
4 mentioned before in pretrial.

5 THE COURT: All right. Noted for the
6 record then. They are in evidence. You may
7 publish.

8 MS. MOLINA: Permission to publish.

9 THE COURT: You may.

10 MS. MOLINA: Thank you.

11 (STATE EXH. 12, Photo, was entered into
12 evidence.)

13 (STATE EXH. 13, Photo, was marked for
14 identification.)

15 (STATE EXH. 14, Photo, was marked for
16 identification evidence.)

17 (STATE EXH. 15, Photo, was entered into
18 evidence.)

19 (STATE EXH. 16, Photo, was entered into
20 evidence.)

21 (STATE EXH. 17, Photo, was entered into
22 evidence.)

23 (STATE EXH. 18, Photo, was entered into
24 evidence.)

25 (STATE EXH. 19, Photo, was entered into

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1 evidence.)

2 (STATE EXH. 20, Photo, was entered into
3 evidence.)

4 (STATE EXH. 21, Photo, was entered into
5 evidence.)

6 (STATE EXH. 22, Photo, was entered into
7 evidence.)

8 (STATE EXH. 23, Photo, was entered into
9 evidence.)

10 (STATE EXH. 24, Photo, was entered into
11 evidence.)

12 (STATE EXH. 25, Photo, was entered into
13 evidence.)

14 (STATE EXH. 26, Photo, was entered into
15 evidence.)

16 (STATE EXH. 27, Photo, was entered into
17 evidence.)

18 (STATE EXH. 28, Photo, was entered into
19 evidence.)

20 (STATE EXH. 29, Photo, was entered into
21 evidence.)

22 (STATE EXH. 30, Photo, was entered into
23 evidence.)

24 (STATE EXH. 34, Photo, was entered into
25 evidence.)

1 (STATE EXH. 35, Photo, was entered into
2 evidence.)

3 BY MS. MOLINA:

4 Q All right. Starting with State's Exhibit 12, what
5 is that?

6 A So that's, like I was talking about, the
7 exterior photograph of the front of the residence.

8 Q And what is this?

9 A Same picture.

10 Q Okay. What about State's Exhibit 13 -- 14?
11 Excuse me.

12 A That would be the living room area, a little
13 bit of the siding on the front.

14 Q State's Exhibit 15?

15 A Same thing. So it would just be the reverse
16 side of that picture looking back towards the
17 kitchen.

18 Q Okay. So on over here would be State's Exhibit
19 14?

20 A Correct. That would be like you're standing
21 in the living room looking back towards the
22 kitchen.

23 Q Okay. State's Exhibit 16?

24 A Yeah, that's the side of the living room
25 there.

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1 Q State's Exhibit 17?

2 A Same thing, just a different angle of it
3 showing the side of the TV right there that was in
4 the living room.

5 Q State's Exhibit 18?

6 A So this looks like it is Mr. Robinson's
7 room.

8 Q Okay. State's Exhibit 19?

9 A Same thing.

10 MR. MCFADDEN: Objection to the opinion
11 testimony describing it as "his room," or lack of
12 foundation as to how that was established.

13 THE COURT: Okay. He can say that during
14 his investigation and . . .

15 BY MS. MOLINA:

16 Q Did Miss Brown indicate which room belonged to
17 Jonathan Robinson?

18 A She did, and we also located his ID and his
19 social security card in this room.

20 Q Okay, thank you.

21 State's Exhibit 20?

22 A That's standing in the same spot in the same
23 room. It's got the dresser drawer right there.

24 Q Okay. State's Exhibit 21?

25 A So this is standing in the room looking back

1 out and that's the same dresser.

2 Q State's Exhibit 22?

3 A So this is inside that dresser drawer. You
4 see his South Carolina identification card and his
5 social security card. It's kind of fuzzy.

6 Q And that was inside -- was that inside this
7 dresser?

8 A Yes, ma'am.

9 Q State's Exhibit 23?

10 A That's just a closer-up picture.

11 Q Of the identification found?

12 A Yes, ma'am. Of the South Carolina
13 identification card and his social security card
14 with Jonathan Robinson.

15 Q Okay. When you watched the surveillance, were you
16 able to identify pieces -- articles of clothing?

17 A I was.

18 Q And what do you see in this picture?

19 A So these are matching shoes that we had back
20 to the scene from the video surveillance at the
21 community center.

22 Q Okay. And that is State's Exhibit 24.

23 State's Exhibit 25?

24 A That's just me. I laid the shoes out for a
25 better picture. It's next to the black hoodie.

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1 Q And those are the same shoes in 24, right?

2 A Yes, ma'am.

3 Q What about State's Exhibit 26?

4 A So this is the black hoodie that he was
5 wearing. I think the material kind of makes it
6 look a little bluer in this picture, but it's a
7 very distinct Nike check on the left shoulder
8 there and a Bluffton Bobcat on the front.

9 Q And why did you collect this sweatshirt?

10 A Because we already had the stills from the
11 video surveillance, so I knew exactly what
12 clothing I was looking for for going and doing the
13 search warrant.

14 Q And that appeared to be consistent with what you
15 saw?

16 A Yeah. So this verified that, you know, this
17 is the correct suspect. The correct clothing that
18 we're looking for. This is why we do the search
19 warrant.

20 Q Okay. State's Exhibit 27?

21 A So this is a laundry basket that's in the
22 corner of the room. There's a gun in this picture
23 that's laying across -- I guess, hugging up next
24 to the laundry basket.

25 Q Is this the laundry basket that we see in this

1 picture?

2 A Yes, it's underneath that window.

3 Q Right here (indicating)?

4 A Yes, ma'am.

5 Q And --

6 A So it's kind of hard to see, but if you see
7 the blue towel, it's laying across the towel right
8 there.

9 Q Next to this gray sweatshirt?

10 A Yes.

11 Q What about State's Exhibit 28?

12 A So this is -- would be after I pull it out of
13 the laundry basket. I lay it down for a better
14 photograph.

15 Q And State's Exhibit 29?

16 A And that's just flipping it over to see the
17 other side of the gun.

18 Q State's Exhibit 30?

19 A So I laid the items out together. You know,
20 the shoes, the black hoodie, the gun, and then a
21 possible backpack right there.

22 Q And those were all in the room that Miss Brown
23 indicated to you was Jonathan Robinson's room?

24 A Correct.

25 (STATE EXH. 31, Evidence Bag; Nike

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1 Shoes, was marked for identification.)

2 (STATE EXH. 32, Nike Hoodie, was marked for
3 identification.)

4 (STATE EXH. 33, Handgun, was marked for
5 identification.)

6 BY MS. MOLINA:

7 Q I'm handing you State's Exhibit 31, 32, and 33.

8 Do you recognize item number 31?

9 A So this is how we turn in evidence after the
10 search warrant. So this bag, I completed this bag
11 and filled it out. One pair of black Nike shoes,
12 size 13 located in what we called bedroom 1.

13 Q And how do you recognize that item?

14 A So on each piece of evidence, I would put
15 it's from me and it goes to our evidence, and it's
16 got a date and time, ID as well, too.

17 Q Did you sign and seal it?

18 A I did. So you see there's red evidence tape
19 and then I sign it and put my badge number and
20 date.

21 Q Did you alter it or change it in any way?

22 A I did not. This would have been from the day
23 that I turned it in just like this.

24 Q And you maintained its integrity while in your --

25 A Yeah, it's secured in our evidence

1 division.

2 Q What about State's Exhibit 32?

3 A So 32 is the black hooded Nike sweatshirt
4 with the Bluffton Bobcat logo located in bedroom
5 number 1. The same deal. It's from me to our
6 evidence on 3/25/22. It's got the time. It's
7 also got the tape over it. It's sealed with my
8 signature, badge number, and date.

9 Q And which one was bedroom number 1?

10 A That's Mr. Robinson's bedroom.

11 Q And you said you signed and sealed that one?

12 A Yes, ma'am.

13 Q I'm handing you State's Exhibit 33. Do you
14 recognize that item?

15 A I do. So this is the handgun. It is
16 described as a Beeman P17 BB gun located in
17 bedroom number 1. Same deal. It's got my name,
18 evidence, the day I turned it in, the time I
19 turned it in. It's got the tape on there. My
20 signature, badge number, date. And then I
21 purposely cut this open this morning to make sure
22 it was safe to have it here in court.

23 Q Okay. I'm going to hand you --

24 MS. MOLINA: At this point, State moves
25 State's Exhibits 31, 32, and 33 into evidence.

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1 MR. MCFADDEN: Subject to my pretrial
2 objections.

3 THE COURT: Subject to your pretrial
4 objections, they're in.

5 (STATE EXH. 31, Evidence Bag; Nike
6 Shoes, was entered into evidence.)

7 (STATE EXH. 32, Nike Hoodie, was entered
8 into evidence.

9 (STATE EXH. 33, Handgun, was entered into
10 evidence.)

11 BY MS. MOLINA:

12 Q All right. Investigator Duncan, if I could just
13 have you step down.

14 MS. MOLINA: Permission to publish them,
15 Your Honor.

16 THE COURT: Yes.

17 BY MS. MOLINA:

18 Q Step down and cut the others open so we can see
19 the items inside.

20 A Okay.

21 MR. MCFADDEN: Judge, may I reposition so
22 I can see?

23 THE COURT: You may.

24 BY MS. MOLINA:

25 Q Okay. Let's start with State's Exhibit 31.

1 A 31. This is 31.

2 Q Okay.

3 A So this is the black Nike shoes.

4 Q And are those the shoes that appear to be
5 consistent with the ones in the surveillance still you
6 took?

7 A Yes, ma'am.

8 Q And State's Exhibit 32. And is that the
9 sweatshirt -- is that the sweatshirt that you
10 collected that appears to be consistent with the
11 surveillance still you took, State's Exhibit 34?

12 A Yes, ma'am.

13 Q Okay. State's Exhibit 33, you mentioned cutting
14 it open earlier. Can you remind us?

15 A Yes. So I made this gun safe.

16 Q It's not loaded?

17 A It is not loaded.

18 Q Okay. And you indicated that it was -- what it
19 was described as. Is that a BB gun?

20 A It is. So it's a Beeman P17, which I had to
21 look up what it was, and did find that it is a BB
22 gun.

23 Q Okay. And does that gun appear to be consistent
24 with the one in the surveillance?

25 A It does.

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1 Q Thank you, Investigator Duncan. You can retake
2 the stand.

3 After the search, did you speak with
4 Miss Brown?

5 A I did.

6 Q And what did you-all talk about?

7 A So I introduced myself to her. It was the
8 first time meeting in person. I explained the
9 case a little bit more fully to her. Told her
10 about her son's involvement in the case. And I
11 believe actually this is when she told me she was
12 a minister and her husband was the pastor. She
13 didn't understand the choices her son made. And
14 then I showed her two pictures as well.

15 Q State's 34 and 35, are these the pictures you
16 showed her?

17 A Yes, ma'am, it looks like it. It's really
18 dark, though.

19 Q Those are the pictures you showed her?

20 A Yes.

21 Q And did she indicate whether she knew the person
22 in the picture?

23 A Yeah, she acknowledged that was her son.

24 Q Jonathan Robinson?

25 A Yes.

1 Q You also talked about getting search warrants for
2 Facebook. Did you get records in response to that
3 search warrant?

4 A I did. So anytime we do a search warrant on
5 Facebook, it usually takes a little while to get
6 the records back. You keep the investigation
7 going. And then I don't remember the exact date
8 when they did come back. You get a lot of records
9 from these places. The majority of the records
10 don't mean anything.

11 MR. MCFADDEN: At this point, Judge, I'm
12 going to object to this line of questioning, if
13 there's any sort of records offered by the State
14 from Facebook, as hearsay and under 901 for
15 authentication.

16 THE COURT: Okay. Come up here for a
17 second. Both of you.

18 MR. MCFADDEN: You asked us to come up?

19 THE COURT: Both of you, yes, please.

20 All right. What are you going to get him
21 to testify to?

22 MS. MOLINA: Testifying to the Facebook
23 records and messages and media contained in some
24 of the Facebook records. It's like over 1,000
25 pages, but there's certain records where the

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1 defendant is sending selfies. He sends pictures
2 of the phone. He talks about getting into a
3 locked Galaxy. There's videos of him playing the
4 PlayStation and the stolen games.

5 THE COURT: And he turned all this over,
6 obviously, correct?

7 MR. MCFADDEN: I have it. My concern,
8 why I'm raising the objection is that, you know,
9 like the Facebook profile, the profile picture,
10 whatever page, that's in NCIC. He can't
11 authenticate that. These are internal records
12 from Facebook that were turned over to
13 Investigator Duncan per that search warrant.

14 THE COURT: Right.

15 MR. MCFADDEN: There's nobody else to
16 authenticate those --

17 MS. MOLINA: It's 901 --

18 MR. MCFADDEN: -- that's seen them before
19 other than him and Facebook, so --

20 THE COURT: Is there anybody else to
21 authenticate them?

22 MS. MOLINA: It's 901(b)(4), the
23 distinctive characteristics. It's the reply
24 letter doctrine. He got these records through a
25 search warrant. There's *State v. Green* talking

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1 about social media. And there's *United States v.*
2 *Resio* which talks about the exact same -- the
3 exact same issues of authentication and the
4 distinct characteristics. These should be heard
5 on --

6 MR. MCFADDEN: Do you mind if we just --
7 as a matter of law, just so I can put that on the
8 record, my objection.

9 THE COURT: Sure. You want to bring the
10 jury in and out again or just break for lunch?

11 MR. MCFADDEN: Yeah, it's 12:30.

12 THE COURT: It's 12:30. So, yeah, let's
13 go ahead and just break for lunch then.

14 MS. MOLINA: Okay.

15 THE COURT: All right. Ladies and
16 gentlemen, there's a matter of law I need to put
17 on the record. What I'm going to do is go ahead
18 and break for lunch now instead of having to send
19 you back out and bring you back in. It is 12:30.
20 I'm going to ask that you be back in your jury
21 room at 1:45 where we're going to continue the
22 trial of this case. I need to remind you, ladies
23 and gentlemen, over the lunch hour, you are free
24 to go get a bite to eat. Grab something. You're
25 welcome to ask the bailiffs what's nearby if you

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1 don't know the area well. But, again, you are not
2 to discuss this case with anyone. You're not
3 supposed to do any independent research. Just get
4 a bit to eat, ladies and gentlemen, come on back
5 and we will see you at 1:45.

6 (Jury exits the courtroom at 12:31 p.m.)

7 MS. MOLINA: Judge, I'm --

8 THE COURT: Give me one second.

9 THE BAILIFF: Jury is clear, Your Honor.

10 THE COURT: Thank you.

11 Can I see a copy of what you're going to show
12 him?

13 MS. MOLINA: Yes. I am handing you up
14 *State vs. Green*, 427 S.C. 223, *State v. Fesio* --
15 or *United States v. Resio*, excuse me, 884 F.3d
16 230. I'm also handing you up copies of what I
17 plan to submit into evidence. There's a redacted
18 copy and an unredacted copy. I would submit the
19 redacted copy.

20 THE COURT: Okay.

21 MS. MOLINA: And a copy for your clerk.

22 As we briefly discussed at the bar --

23 THE COURT: Give me one second. I just
24 want to see what was returned.

25 MS. MOLINA: Yes, ma'am. And I did not

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1 include the certificate of authenticity, but I can
2 pass that up, too, to Your Honor.

3 THE COURT: Yes, let me see it.

4 Okay.

5 MS. MOLINA: As to the Facebook records,
6 *State v. Green*, *United States v. Resio*, South
7 Carolina rules of evidence 901(b)(4), the
8 authentication of the Facebook records as records
9 coming from Facebook can be through the reply
10 letter doctrine and a search warrant and return.
11 In response to that search warrant, Facebook sent
12 the records. *State v. Green*, I believe, talks
13 about the reply letter doctrine.

14 The record also includes a certificate of
15 authenticity which certifies that their records
16 are kept in the regular and ordinary source of
17 business. The reference to the search warrant,
18 the date received, and the account identifier, it
19 also states that they -- the records are
20 maintained as the account uses them
21 contemporaneously.

22 As to authenticating that the Quitbiting
23 Pullup is defendant's Facebook. *State vs. Green*
24 is the South Carolina case that I will be relying
25 on. It's a murder investigation of human remains

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1 case. The Court goes into a long description of
2 authenticating Facebook. And on page 5, the first
3 column at the bottom of the paragraph, it does
4 discuss that a writing can't be authenticated
5 merely on its own, and it discusses how there's
6 always been this vulnerability to the written word
7 to fraud and it didn't begin with the Internet,
8 and that social media should not bear a heavier
9 authentication burden just because it's a modern
10 media. They call it old wine in a new bottle.

11 They state that 901(4)(b) -- or (b)(4) is
12 one of the most successful methods used to
13 authenticate all evidence, including social media,
14 and that it has to be distinctive and that it
15 purports to be what it is.

16 THE COURT: Well, obviously, under 901(b)
17 for any message via Facebook or any other social
18 media platform it's easiest to either have the
19 person authenticate it by it being the sender or
20 the receiver.

21 MS. MOLINA: It does. In *State vs.*
22 *Green*, they recognize that that's usually the
23 easier method.

24 THE COURT: Right.

25 MS. MOLINA: But in cases you don't

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1 always have that, especially when it's a party
2 opponent.

3 THE COURT: Right.

4 MS. MOLINA: And that's why they look to
5 901(b)(4), the distinctive characteristics.
6 Authentication may be proven by appearance,
7 content, substance, internal patterns, or other
8 distinctive characteristics, and may also be
9 authenticated in reply to regular activity.

10 THE COURT: Let me just ask this
11 question: So Mr. Gecy received -- the victim in
12 this case received the text or the Facebook
13 messages from presumably Mr. Johnson (sic). And,
14 obviously, the ones that were made by Mr. Johnson,
15 that's an admission by a party. That's comes in
16 regardless, as long as we can authenticate it.

17 MS. MOLINA: Right.

18 THE COURT: And Mr. Gecy is saying that,
19 yes, I received these, and that's what he turned
20 over and showed to Investigator Duncan.

21 MS. MOLINA: We don't have the messages
22 between the victim and the defendant.

23 THE COURT: Okay.

24 MS. MOLINA: The other search warrant was
25 for the group.

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1 THE COURT: Okay.

2 MS. MOLINA: And the defendant's search
3 warrant, Facebook pulls the records as they are
4 when they get the preservation letter. And, at
5 that point, the victim had already been blocked.
6 Presumably, the messages were deleted. But
7 they're not in there.

8 And so it's not two conversations between
9 the victim and the defendant.

10 THE COURT: This is the photos that you
11 just showed me here which are pictures of the
12 actual Samsung phone, is what you're saying they
13 are, correct?

14 MS. MOLINA: Yes, ma'am. And those were
15 taken in his room after the robbery.

16 And so the purpose of offering the
17 Facebook records is because identity is the issue
18 in this case. The Facebook records that I will
19 establish through testimony and some of the other
20 items contained in the packet that I handed you to
21 authenticate that it was defendant's Facebook and
22 he was the one using them -- using it and it
23 wasn't a hack, and then established that he had
24 the items afterwards and was communicating them
25 through Facebook to try to sell, and that he was

1 also using and playing the PlayStation.

2 The *State v. Resio* discusses -- let me
3 find the page for you-all.

4 *State v. Resio* deals with the defendant
5 posting lyrics to his Facebook page. The
6 authentication question on page 7 in this second
7 paragraph, "What matters is not whether a jury
8 could find that *Resio* did not author the post in
9 question, but rather whether the jury could
10 reasonably find that he did."

11 Authentication is a low standard. I will
12 be eliciting testimony to establish
13 authentication. Facebook records can be
14 authenticated through the reply letter doctrine,
15 but also through their certificate of
16 authenticity. And because Investigator Duncan is
17 the one that sent the search warrant, he is the
18 other qualified witness that can testify to the
19 records.

20 MR. MCFADDEN: Can I respond briefly,
21 Judge?

22 THE COURT: Give me just one second. I'm
23 reviewing this case.

24 MS. MOLINA: And I briefly touched on the
25 characteristics, but you want the details from his

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1 Facebook, I can do that.

2 THE COURT: So what you're getting from
3 his Facebook account, I see the photographs of the
4 alleged Samsung phone. I see the photograph of
5 Mr. Robinson himself.

6 Is there actually any text messages or any
7 actual --

8 MS. MOLINA: Yes, ma'am. There are
9 messages of him. The selfies and the beginning
10 pages are to identity where it's the same
11 birthday, Beaufort County, Quitbiting Pullup.

12 THE COURT: Okay.

13 MS. MOLINA: Selfies. He said that's me.
14 Identifies some things about his family.

15 THE COURT: Okay.

16 MS. MOLINA: But then if you get to -- I
17 think beginning on, like, page 317 in the packet
18 that I passed up, that's where he starts on
19 March 21st, *Galaxy for sale*. And on the next
20 page, *Galaxy for sale*. Got three cameras, and he
21 sends the picture of the phone. He also -- later
22 on, there's a voice message where he says, *I'm*
23 *getting rid of this phone*. Not phone, but he
24 discusses getting rid of it. Sends the photo to
25 other people.

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1 And I handed you up redacted and
2 unredacted.

3 THE COURT: Okay.

4 MS. MOLINA: The majority of what I
5 redacted either wasn't relevant because there was
6 just talking, or it was what would probably fall
7 under 404(b) discussing drugs, dealing drugs. And
8 all that I'm trying to get in with these records
9 is that he had the phone, trying to sell the
10 phone, trying to get into the phone, he's playing
11 the PlayStation. He talks about going to Walmart
12 and the phone is going in this machine. And then
13 there's also towards the end references to police
14 on the same day as the incident. I think both on
15 the same day. Both on the same day of the
16 incident.

17 And authentication is a low bar. It's a
18 little higher for writing, but I think there is
19 sufficient evidence in the record provided and the
20 testimony that I would elicit from him prior to
21 moving or publishing that would authenticate these
22 records.

23 THE COURT: Okay. Let me hear your
24 argument, Mr. McFadden.

25 MR. MCFADDEN: Thank you. My argument is

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1 pretty straightforward. And the biggest one, I
2 suppose, is that Investigator Duncan is not who
3 the State is relying on to authenticate these
4 records as being properly -- you know, to meet the
5 business record exception. They're relying on a
6 Facebook custodian who is not present, who is not
7 subject to being cross-examined, who has just
8 submitted a certificate of authenticity, which --
9 that certificate right there, that was obviously
10 made for a report. I don't see how that's not
11 testimonial hearsay.

12 So they're just getting in the
13 testimonial hearsay of the Facebook records
14 custodian to say that all this is accurate on
15 their side. I mean, all of this -- because this
16 is rife with all sorts of -- I mean, it's also
17 hearsay, but, you know, information about, you
18 know, what account it came from, where it went to,
19 what the type of account it was, when it was
20 generated, when it was sent. I mean, an enormous
21 amount of technical information and detail that
22 Investigator Duncan obviously should know nothing
23 about. He doesn't know how to keep -- you know,
24 how to maintain Facebook's photos and account
25 profile information.

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1 So they're just trying to end run that
2 the rule, or that part of authentication and
3 arguing that, just because he got the search
4 warrant, he should be able to properly
5 authenticate these.

6 As Your Honor was saying briefly, it's
7 not as if we had the sender or the recipient on
8 the stand here at all. This is all conversation
9 between him and -- allegedly him and other people.
10 We don't have these other people, whoever -- like,
11 these other -- Mary Seabrook. I think there are
12 some other names here. Or at least there's
13 profiles -- other profile names he's communicating
14 with. After that -- I don't see how they get
15 around that problem, Judge.

16 The reply letter doctrine, I'd ask for an
17 opportunity to take a look at that and, kind of,
18 read these cases more closely. I was looking for
19 the hearsay issue.

20 THE COURT: Okay. Well, I think you need
21 to go read *State v. Green*.

22 MR. MCFADDEN: Okay.

23 THE COURT: And what comes from Facebook
24 is the certificate of authenticity of domestic
25 records of regularly conducted activity. I think

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1 anything that she's trying to show, as long as it
2 can be authenticated and we can show by a
3 preponderance of the evidence -- you can convince
4 me by a preponderance of the evidence that it was
5 sent by him, I mean, that's not hearsay because
6 he's the one sending it. So that starts with him.
7 The defendant is the one sending it. So that's
8 not an issue.

9 I know the threshold for rule 901(b)(4)
10 is very low, obviously. And if there's anything
11 that would indicate that it is authentic -- and
12 when I can see pictures, and, obviously, we have
13 other things to compare it to. I got his face we
14 can look at. It looks like him just from the
15 naked eye, first off.

16 Number two, I'm assuming they've used
17 some type of names or something in these. I don't
18 know if they use his actual real names, but
19 regardless -- and then we also have the phone that
20 was stolen, correct? And photographs of the phone
21 that was stolen, correct?

22 MS. MOLINA: Correct.

23 THE COURT: So I think, certainly, I
24 think the authenticity in this case is good.
25 There's no question.

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1 I also find it relevant. Obviously, this
2 is one of the items. You know, that this is a
3 photograph of one of the things he stole, and
4 there's pictures of it. So, again, you said
5 there's one of him playing and using the
6 PlayStation?

7 MS. MOLINA: There's a video of him
8 playing in his living room.

9 THE COURT: The PlayStation as well. I
10 think that, certainly, is all relevant. I think
11 it's probative, clearly. And I think, even under
12 403 analysis -- you know, it's definitely relevant
13 under a 401 analysis, but 403 as well. So I'm
14 going to allow it to come in. I think you did a
15 good job establishing it.

16 You may want to go ahead and look at more
17 of those cases, but I'm going to give the State
18 back this. We need to make a copy of the
19 certificate of authenticity as a Court's exhibit
20 for -- I think it needs to be an exhibit in the
21 trial as well.

22 MS. MOLINA: Okay.

23 THE COURT: Actually, as long as you keep
24 it as a trial exhibit, I'm letting it in, then
25 it's fine. You don't need to make it a Court's

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1 exhibit. But I've looked at it and reviewed it
2 and I'm comfortable with it.

3 Anything else before we break for lunch?

4 MR. MCFADDEN: Judge, the only thing I'd
5 ask is if I have something additional after
6 reviewing it --

7 THE COURT: Certainly.

8 MR. MCFADDEN: -- that you give me the
9 opportunity to put that on the record.

10 THE COURT: Certainly. If you guys all
11 want to come back -- we'll bring the jury back at
12 1:45. You know, a little less than an hour. If
13 you-all just want to be here five minutes early,
14 any other argument for the record, we can go ahead
15 and put it on there. Okay?

16 MR. MCFADDEN: Thank you.

17 THE COURT: Okay.

18 MS. MOLINA: For the record and for
19 defense, I recognize Investigator Duncan is still
20 under oath.

21 THE COURT: Thank you.

22 You're still under oath. Don't talk about
23 your testimony. All right. Thank you.

24 (A break was taken from 12:48 to 1:55 p.m.)

25 THE BAILIFF: All rise. Court is in

1 session.

2 THE COURT: All right. The State ready?

3 MS. MOLINA: State is ready.

4 THE COURT: Defense ready?

5 MR. MCFADDEN: Judge, I have one more
6 issue with the Facebook.

7 THE COURT: Sure.

8 MR. MCFADDEN: I reviewed this with
9 Miss Molina, but she cued up for you video clips.
10 And the one that I would specifically -- in
11 addition to my other objection about hearsay
12 testimony is, she, I think, intends to introduce a
13 clip where it's a short video of allegedly the
14 defendant saying "'F' 12." And I think it's --
15 per the records, the date on it I think is
16 3/19/2022. She wants to present both of those
17 together as consciousness of guilt.

18 THE COURT: What does that mean?

19 MR. MCFADDEN: I think she's going to
20 elicit that from Investigator Duncan.

21 MS. MOLINA: 12 is police.

22 MR. MCFADDEN: It's slang for police.

23 THE COURT: Oh.

24 MR. MCFADDEN: So "'F' police."

25 MS. MOLINA: It's apparently an old show

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1 and has now become the slang for police 12.

2 MR. MCFADDEN: Sorry. I blew right past
3 that.

4 THE COURT: It's okay.

5 MR. MCFADDEN: So I just think with
6 nothing else, that -- and it happened to be, per
7 Facebook here, on that date, I think it would get
8 into character or just bad act evidence. I don't
9 think there's enough for consciousness of guilt.

10 MS. MOLINA: The preceding text to the
11 video on 3/19, and it's on page 449, is, "You know
12 how to get into a locked Galaxy?" And then he
13 sends the video saying "'F' 12." So it's showing
14 that -- and it's on the date that the robbery
15 happened that he has the logged Galaxy asking how
16 to get in it, and also almost bragging about
17 stealing this phone and "'F' the police."

18 I think if there is any bad act language,
19 I mean, it's -- it's not great language, but it's
20 not overly offensive. It's relevant to
21 consciousness of guilt, and it's not overly
22 prejudicial. It's certainly more probative.

23 THE COURT: I think the locked Galaxy
24 portion is all obviously relevant and I think it
25 can be used. I don't see where you benefit from

1 getting the "'F' 12."

2 MS. MOLINA: I also failed to mention.

3 It is a selfie video of him saying it, so you see
4 his face and it also appears like he's sitting in
5 his living room which we have pictures in the
6 search warrant from. So it also goes to his
7 identity as being the one using his phone on the
8 19th referencing this locked Galaxy. So he was
9 not hacked, he's made a selfie video, and also
10 talking about the police. And there's no messages
11 in between. It's a
12 how-to-get-into-a-locked-Galaxy video.

13 THE COURT: So this is a video -- he
14 isn't sending this to anyone specifically. He's
15 just making it and he's putting it out there on
16 Facebook as a message in general?

17 MS. MOLINA: He's sending it to the
18 person who he asked if they knew how to get into a
19 locked Galaxy.

20 THE COURT: Okay.

21 MS. MOLINA: And that's why it's
22 relevant.

23 THE COURT: So is that like Facebook
24 messenger? Is that what this is?

25 MS. MOLINA: Yes.

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1 THE COURT: Okay.

2 MS. MOLINA: You see his face, he's
3 talking, he's in his living room, and it's the day
4 the robbery happened.

5 MR. MCFADDEN: Briefly my response would
6 be, there's been a whole lot of testimony and
7 evidence otherwise about him being at the house.
8 He lived there. It was his room from the
9 testimony from Investigator Duncan about what mom
10 said and him searching it elsewhere. In terms of
11 video of something in the house, Miss Molina
12 intends to also introduce evidence of, like, the
13 PlayStation and a picture in a domestic setting, I
14 guess maybe they're arguing this is his house, and
15 a couple of other things, I just think if we just
16 get into 403 territory with just that one clip, it
17 just makes him sound like a bad guy.

18 MS. MOLINA: It's also the only video
19 from the March 19th date. The ones of him playing
20 the game, you don't see his face. You see the
21 living room, but that's the following day. So
22 this is putting his phone in his hand on Facebook
23 the date of the robbery using the phone and the
24 locked Galaxy. That's how it all ties in
25 together.

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1 So whatever prejudicial effect there is
2 by a grown man saying the "F" word is certainly
3 not outweighing the probative value of it.

4 THE COURT: Okay. I'm going to allow it.
5 Okay, anything else?

6 MR. MCFADDEN: Nothing.

7 MS. MOLINA: Nothing from the State.

8 THE COURT: Let's bring them in.

9 THE BAILIFF: Yes, Your Honor.

10 Your Honor, the jury is ready.

11 THE COURT: Okay.

12 (Jury enters the courtroom at 2:02 p.m.)

13 THE COURT: Welcome back, ladies and
14 gentlemen. We're going to go ahead and continue
15 the testimony of Mr. Duncan.

16 So whenever you are ready, Miss Molina.

17 MS. MOLINA: Thank you.

18 BY MS. MOLINA:

19 Q Investigator Duncan, I believe when you left off
20 you were telling us that you got a search warrant for
21 Facebook.

22 A Yes, ma'am.

23 Q And in response, did you receive records back?

24 A I did.

25 (STATE EXH. 48, Facebook Record, was marked

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1 for identification.)

2 (STATE EXH. 49, Facebook Record, was marked
3 for identification.)

4 (STATE EXH. 50, Facebook Record, was marked
5 for identification.)

6 (STATE EXH. 51, Facebook Record, was marked
7 for identification.)

8 (STATE EXH. 52, Facebook Record, was marked
9 for identification.)

10 (STATE EXH. 53, Facebook Record, was marked
11 for identification.)

12 (STATE EXH. 54, Facebook Record, was marked
13 for identification.)

14 (STATE EXH. 68, Facebook Record, was marked
15 for identification.)

16 BY MS. MOLINA:

17 Q I'm handing you State's Exhibit 68, 48, 49, 50,
18 51, 52, 53, 54. If you could just take a look at
19 these, please.

20 And are those the records that you received
21 from Facebook in response to your search warrant?

22 A Yes. And I, kind of, want to expound on that
23 a little bit, if I may. So when we get a search,
24 obviously, we meet with the judge to explain
25 probable cause to get the search warrant, and then

1 Facebook has a law enforcement portal that we
2 submit to them through and this is what comes back
3 through the portal.

4 Q Okay. And those are part of the records you
5 received from the portal?

6 A Yes. I mean, you'll get thousands of pages
7 back.

8 Q You recognized State's 48 through 54, and 68?

9 A Yes.

10 Q And what are those?

11 A These are portions of the records that came
12 back from Facebook.

13 Q And what -- are they fair and accurate depictions
14 of the records?

15 A Yes.

16 Q Can you just identify briefly what Exhibit 68
17 is?

18 A So 68 is a certificate of authenticity that
19 Facebook will send back saying that these are the
20 true and accurate records.

21 MR. MCFADDEN: I renew my previous
22 objection.

23 THE COURT: Noted for the record.

24 THE WITNESS: That these are the records
25 that Facebook sent to us and they stand by it.

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1 BY MS. MOLINA:

2 Q Those are the records relating to the account that
3 you requested?

4 A Correct.

5 Q And State's Exhibit 48, can you just identify what
6 that is?

7 A Yeah. So 48 is kind of, like, an
8 introductory page. It kind of has the
9 biographical -- or the name of the profile,
10 Quitbiting Pullup.

11 Q Okay.

12 A So it's got like the target number, is what
13 it's called.

14 Q Can you identify State's Exhibit 49?

15 A 49 just kind of gives a little more
16 information on the user itself. It says that he's
17 a male, date of birth [REDACTED] of '94.

18 Q Okay. State's Exhibit 50 just generally identify.

19 A 50 shows the accounts that the user has
20 blocked.

21 Q State's Exhibit 51?

22 A The same thing. It's users that have been
23 blocked so far, and it's got the Quitbiting Pullup
24 on there.

25 Q State's Exhibit 52?

1 A 52. It's a bunch of items that are removed.
2 Friends list and stuff that may have been
3 associated with Mr. Robinson.

4 Q It's his friends list?

5 A Yes, ma'am.

6 Q State's Exhibit 53?

7 A It has a Quitbiting Pullup comment.

8 Q Comment from him?

9 A Yes.

10 Q And State's Exhibit 54?

11 A So these are -- it looks like a bunch of
12 threads back and forth between Quitbiting Pullup
13 and different friends of his.

14 Q The messages section?

15 A The messages section.

16 Q Is that the beginning of the messages?

17 A Yes, yes. I'm sorry. It's just kind of
18 showing, you know, messages going back and forth
19 between Quitbiting and different associates.

20 MS. MOLINA: State moves State's 68 and
21 48 through 54 into evidence.

22 MR. MCFADDEN: I renew the objection that
23 I previously made before, Your Honor.

24 THE COURT: Noted for the record.

25 MS. MOLINA: And permission to publish

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1 those.

2 THE COURT: You may.

3 (STATE EXH. 48, Facebook Record, was marked
4 for identification.)

5 (STATE EXH. 49, Facebook Record, was entered
6 into evidence.)

7 (STATE EXH. 50, Facebook Record, was entered
8 into evidence.)

9 (STATE EXH. 51, Facebook Record, was entered
10 into evidence.)

11 (STATE EXH. 52, Facebook Record, was marked
12 for identification.)

13 (STATE EXH. 53, Facebook Record, was entered
14 into evidence.)

15 (STATE EXH. 54, Facebook Record, was entered
16 into evidence.)

17 (STATE EXH. 68, Facebook Record, was entered
18 into evidence.)

19 BY MS. MOLINA:

20 Q Okay. Investigator Duncan, I know it's going to
21 be small, but we're going to try to read the best we
22 can.

23 Okay. This is State's Exhibit 48, on page 1
24 that you identified as kind of the biographical
25 information. Can you please tell us the target

1 number? I just see the target as the second line on
2 there, the 100069747439546.

3 Q Okay. And that target number is associated
4 with?

5 A You have the Quitbiting Pullup as the first
6 and last name.

7 Q And the date range for this response?

8 A So on the search warrant, we put a date range
9 of how far back we want the records to go. So
10 this is March 5th of '22 to March 29th of '22.

11 Q And then the current city associated with the
12 account?

13 A It shows that he's imputed Beaufort, South
14 Carolina, as his current city.

15 Q Okay. And then down here does it identify phone
16 numbers that are on Facebook?

17 A Yeah. So you can receive phone calls on
18 Facebook through messenger.

19 Q And is a phone number provided?

20 A So the top there, the plus 1, the
21 [REDACTED]-8420.

22 Q Okay. State's Exhibit 49, which you identified as
23 more biographical information, what is the listed
24 gender?

25 A So he listed himself as male and then right

1 below that, also the date of birth on there is
2 [REDACTED] of '94.

3 Q State's 50, which you identified as the blocked
4 list, and on page 48, who does it list as the blocker
5 and blocked?

6 A So to kind of explain this. This lists out
7 everyone that has been blocked. It's been
8 redacted from anybody else. It's showing just the
9 one that we're interested in. So it has
10 Quitbiting Pullup as the blocker and then Brian
11 Gecy as the blocked.

12 Q State's Exhibit 51, page 62, and the support
13 correspondence, is there -- what does that message say
14 with the date, please?

15 A I'm sorry. Say that again.

16 Q Is this a support -- appear to be a support
17 correspondence?

18 A Yes.

19 Q And when was it created, the time it was created,
20 this message?

21 A I see a date of 3/26 on there.

22 Q Okay. And can you read the above text?

23 A "You are temporarily restricted from seeing
24 messages until March 26th at 9:24."

25 Q And who is that from?

1 A That is from Facebook.

2 Q And who is that too?

3 A To Quitbiting Pullup.

4 Q And what was the date on that that it was sent?

5 A The 25th.

6 Q Is there a subsequent message after that?

7 A Yes. So on the 26th, the following day, it
8 says, you are no longer restricted from sending
9 messages.

10 Q And that's from Facebook?

11 A Correct.

12 Q To Quitbiting Pullup?

13 A Correct.

14 Q And I'm going to show you State's Exhibit 52.

15 And you identified this as the friends list. And I'll
16 direct your attention to State's Exhibit 79. Who
17 appears on this friends list?

18 A It was Mr. Jonathan Robinson.

19 Q Okay. And on State's Exhibit 53 that you identify
20 as a comment post, can you please read the contents of
21 State's Exhibit 53.

22 A So on 3/25, Quitbiting Pullup commenting to
23 add Jonathan Robinson, "This page won't let me use
24 messenger."

25 Q Okay. And State's Exhibit 54, which you

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1 identified as the beginning of the messages section.

2 And I'll direct your attention to the bottom page 311.

3 Let me get that zoomed in. If you could read that

4 message to us?

5 A So Quitbiting Pullup is telling somebody to

6 "Call my number," and then Quitbiting Pullup

7 identifies his number as [REDACTED]-8420.

8 Q And what is the date on those messages?

9 A That is on 3/24.

10 Q 2022?

11 A Of '22.

12 (STATE EXH. 55, Facebook Record, was marked
13 for identification.)

14 (STATE EXH. 56, Facebook Record, was marked
15 for identification.)

16 BY MS. MOLINA:

17 Q I'm going to hand you State Exhibits 55 and 56, if
18 you could take a look at those, please. Do you
19 recognize those items?

20 A Yes, ma'am. These are additional records
21 from Facebook.

22 Q In that same record response to the search
23 warrant?

24 A Yes, ma'am. This is just a different
25 section.

1 Q And to briefly identify, what is State's Exhibit
2 55?

3 A 55 is some messages from Quitbiting Pullup
4 talking to a Taylor Brown.

5 Q State's Exhibit 56?

6 A This is the same thing as messages from
7 Quitbiting Pullup talking to a Mary Seabrook.

8 Q And are those fair and accurate depictions of the
9 records that you received?

10 A They are.

11 MS. MOLINA: State moves State's 55 and
12 56 into evidence.

13 MR. MCFADDEN: Over my previous
14 objection.

15 THE COURT: Thank you.

16 (STATE EXH. 55, Facebook Record, was entered
17 into evidence.)

18 (STATE EXH. 56, Facebook Record, was entered
19 into evidence.)

20 BY MS. MOLINA:

21 Q In State's 55 on page 337, can you please read the
22 message?

23 A So this is Quitbiting Pullup talking to
24 Taylor Brown on 3/13 of '22. It says, "Born and
25 raised in Beaufort by my mom. She has five. Two

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1 girls, three boys. I'm the middle like a bowl of
2 fish. I like to bowl, fish, comedy shows, getting
3 out, go go-cart riding. Any outdoor activity.
4 Really just like to have fun. Would say I'm a
5 loner. Just like to be by myself. Less things to
6 deal with and worry about. I landscape, do
7 construction, sheet rock, car detailing inside and
8 out, and power washing, a few other things too."

9 Q Okay. And the next message?

10 A The next one it says -- indicating that
11 Quitbiting Pullup sent a photo to whoever she was
12 talking to, to Taylor Brown.

13 Q On what date?

14 A On the 3/13 of '22.

15 Q Okay.

16 A So this is basically the suspect Jonathan
17 Robinson identifying himself as Quitbiting
18 Pullup.

19 Q Okay. And State's Exhibit -- same Exhibit 55 on
20 Page 339, can you read that top message for us?

21 A Yes. So that's the message that comes right
22 after sending the image. It's Quitbiting Pullup
23 stating on 3/13 of '22, "That's me."

24 Q Okay. This bottom message on 339?

25 A Once again from Quitbiting Pullup on 3/13/22.

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1 "And here's some more of me, about -- well, about
2 my life. Lost my trailer about seven months ago.
3 Now, due to a fire car (sic), got totaled November
4 13. Front right wheel flew off. The whole thing
5 came off. The truck flipped and I went out the
6 window. Only had a hurt leg thanks to God and the
7 jeep flew into the marsh. Shit was so crazy. I
8 don't have insurance, so I just limped down the
9 road to my homeboy. Bent The Corner picked me up,
10 so I'm starting over. But it's all coming back
11 faster than I expected. Hard work pays off. I
12 can promise you."

13 Q And the next message, please.

14 A Once again, the same date, 3/13 of '22.
15 Quitbiting Pullup says, "Been in hotels about six
16 months. Just got back in my people's spot. My
17 mom really left it to my sis, but she moved so
18 it's me and my mom until her house gets finished.
19 She's a minister. Her husband a pastor."

20 Q State's Exhibit 55, which you identified as
21 messages with Mary Seabrook. If you could read them,
22 please.

23 A All right. From Quitbiting Pullup on 3/16 of
24 '22, "I stay in the front in the cut."

25 And then the next one says, "Call me, I'll

1 show you."

2 And then the next one says, "I stay on the
3 center road across from Davis."

4 Q And that bottom message?

5 A Bottom one on 3/16, "I'm very low key. And I
6 was just in an accident myself, so my shit
7 totaled. But I'm going to have one before this
8 month out or the beginning of next month. Facts."

9 Q That was the bottom 982. And the top 983?

10 A "My tire flew off on Morgan Road and threw me
11 in the ditch."

12 Next one, "I get around, though, for the
13 moment."

14 And then it says, "Yes, he is. Got out with
15 just a hurt knee."

16 Q Okay.

17 A And then the end is him sending another
18 photograph.

19 Q On 3/16?

20 A Yes.

21 Q Okay.

22 A And this photograph is once again verifying
23 Jonathan Robinson is Quitbiting Pullup.

24 Q Okay. And on page 986.

25 A It looks like Quitbiting Pullup sending

1 another photograph.

2 Q And page 987.

3 A That's, once again, Jonathan Robinson
4 verifying that he is Pullup Quitbiting (sic), and
5 that's him with the hat on.

6 Q Okay. And the message on the top of page 988.

7 A So, if you go back, the other person in
8 there, she's wrote -- is telling him, "Take that
9 hat off," and he sends a picture without the hat.
10 And now he's replying back, "You happy now," just
11 verifying that it is a current ongoing chat. It's
12 not old pictures or anything like that.

13 (STATE EXH. 57, Facebook posts, was marked
14 for identification.)

15 (STATE EXH. 58, Facebook posts, was marked
16 for identification.)

17 (STATE EXH. 59, Facebook posts, was marked
18 for identification.)

19 (STATE EXH. 60, Facebook posts, was marked
20 for identification.)

21 (STATE EXH. 61, Facebook posts, was marked
22 for identification.)

23 (STATE EXH. 62, Facebook posts, was marked
24 for identification.)

25 (STATE EXH. 63, Facebook posts, was marked

1 for identification.)

2 BY MS. MOLINA:

3 Q I'm going to hand you State's Exhibit 57 through
4 63. If you can take a look and identify those for
5 me?

6 A Okay.

7 Q Exhibit 57, do you recognize the -- do you
8 recognize State's Exhibit 57 as part of the records
9 that came from Facebook?

10 A Yes. So these are just additional records
11 just like we've been going over.

12 Q Can you identify 57?

13 A 57 just looks like more messages between
14 Quitbiting Pullup and now it's with a Boss Kelson.

15 Q State's 58-A?

16 A Same thing. It's a message between
17 Quitbiting Pullup State 58-B.

18 A Same thing. Messages between Quitbiting
19 Pullup and there's a Zyhene Scott.

20 Q Is that 58-B?

21 A Oh, I'm sorry. That's 59. B. Oh, it's a
22 video message. So on the 58, there's another
23 link, how he sent, like, pictures, but this time
24 it looks like a video.

25 Q And have you reviewed that video also?

1 A I have.

2 Q And is that the message, the video messages that
3 was sent in the -- imbedded in the message of 58?

4 A Yes.

5 Q And it's a fair and accurate representation of
6 that message?

7 A Yes, ma'am. And I've verified that by
8 watching it and put my initials and dated it.

9 Q Okay. And 59.

10 A 59 goes back to the messages between
11 Quitbiting Pullup.

12 Q State's 60-A?

13 A 60-A is Quitbiting Pullup messages. It
14 starts with Zyhene Scott, but then it switches
15 over to Shane Owen.

16 Q State's 60-B?

17 A 60-B. So he sends another -- it looks like a
18 video link to Shane Owen. I'm sorry. When I say
19 "he," Quitbiting Pullup sends video link to Shane
20 Owen.

21 Q And have you reviewed that disk?

22 A I have.

23 Q And it's a fair and accurate video of that which
24 was referenced in the messages?

25 A Correct.

Testimony of Todd Duncan

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1 Q State's Exhibit 60-C.

2 A C is just a screen shot or a few screen shots
3 from the video of 60-B.

4 Q And 60-D.

5 A Same thing. It's a screen shot from a
6 video.

7 Q And are those fair and accurate depictions of the
8 videos in 60-B?

9 A Yes.

10 Q Okay. State's Exhibit 61.

11 A These are more messages from Quitbiting
12 Pullup talking to a Charefe Blare.

13 Q And State's Exhibit 62.

14 A More messages from Quitbiting Pullup talking
15 to No Faking.

16 Q State's Exhibit 63.

17 A Once again, messages from Quitbiting Pullup
18 talking to Tommy Eagan.

19 Q And those are all fair and accurate depictions of
20 the records you received from Facebook?

21 A Yes.

22 MS. MOLINA: State moves into evidence
23 State's exhibits 57 through 63.

24 MR. MCFADDEN: I renew my previous
25 objections to all these records.

Testimony of Todd Duncan

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1 THE COURT: Thank you.

2 (STATE EXH. 57, Facebook posts, was entered
3 into evidence.)

4 (STATE EXH. 58, Facebook posts, was entered
5 into evidence.)

6 (STATE EXH. 59, Facebook posts, was entered
7 into evidence.)

8 (STATE EXH. 60, Facebook posts, was entered
9 into evidence.)

10 (STATE EXH. 61, Facebook posts, was entered
11 into evidence.)

12 (STATE EXH. 62, Facebook posts, was entered
13 into evidence.)

14 (STATE EXH. 63, Facebook posts, was entered
15 into evidence.)

16 BY MS. MOLINA:

17 Q State's 57, which you identified as messages, can
18 you please read the message?

19 A So, like I said earlier, this is messages
20 from Quitbiting Pullup. This one is going to a
21 Boss Kelson. It was dated 3/21 of '22. The
22 message states, "Galaxy for sale."

23 Q Okay. State's Exhibit 58-A.

24 A So once again, this is Quitbiting Pullup.

25 This one is going to Furleys Up For Life, and this

Testimony of Todd Duncan

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1 is on 3/21 of 22 saying, "Galaxy for sale." The
2 next one says, "Big got three camera," and then
3 there's a photo right after.

4 So this is the photo that Quitbiting Pullup
5 sent to that person of the Galaxy. It has three
6 cameras on it and it is sitting on the dresser that's
7 identified during the search warrant as belonging to
8 Jonathan Robinson in his room.

9 Q Okay. And State's Exhibit -- the next page of
10 State's Exhibit 58-A?

11 A It's another photo that's sent from
12 Quitbiting Pullup. It looks like it's just
13 flipped over to the other side. Same spot on top
14 of the dresser inside Jonathan Robinson's room.

15 Q Page 410 of State's Exhibit 58.

16 A So another message from Quitbiting Pullup
17 going to Furleys Up For Life. This is 3/21 of 22.
18 The first one there says Galaxy. And jump down a
19 little bit. It says, "My brother got it, which I
20 don't know really."

21 The next one down says, "I'll call you and
22 show you."

23 If you go down to the next message it's,
24 "Galaxy watch too." There's some video chat that
25 tried to happen between.

Testimony of Todd Duncan

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1 And then the next one message down on 3/21 at

2 16:55. It says, "Shit brand new."

3 The next one is, "Call me. Can see it for
4 yourself."

5 The next messages says, "No stretches or
6 cracks, brand new." I think he means scratches for
7 stretches.

8 And then the next message down, Quitbiting
9 Pullup is asking for 75 for it.

10 So then we have Quitbiting Pullup. This is
11 the conversation continuing. It says, "Man, I on
12 (sic) really know because this shit here. I'll let
13 you know in a sec. I'm going to let my people go
14 through it. I'll answer every question you need."

15 And then the next one down is a Samsung
16 Galaxy. And there's a phone call that happens. The
17 next message is, "Samsung Galaxy S-22."

18 And then the next message is, "Look it up."

19 And the next one, "It should definitely be
20 it."

21 And the next one is, "For 22 plus."

22 The next one, "It's one of the other."

23 And then drop if you down a little bit.

24 It's, "Yeah, you just got to power it on and
25 connect to WIFI. Set it up. Get it done."

Testimony of Todd Duncan

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1 And then the next message down is, "Pull
2 up."

3 And then the next message, "What you going to
4 do?"

5 Q What's the date on that one?

6 A So we have it's on 3/22 of '22.

7 Q Okay.

8 A So Quitbiting Pullup also sends on 3/23, "You
9 want this shi? (sic)"

10 And the next one down is, "Word."

11 And then the next line down is, "I'm going to
12 see if I can pull up on you."

13 The next line, "I'm going to bring that bih
14 to you."

15 And then there's a reaction that comes back
16 to the message but it doesn't really show. And then
17 there's a voice message that's sent for Quitbiting
18 Pullup.

19 Q And is that State's Exhibit 50-B?

20 A Yes.

21 Q Okay.

22 (Message played.)

23 BY MS. MOLINA:

24 Q And State's Exhibit 59, which you identified as
25 messages with Zyhene Scott?

Testimony of Todd Duncan

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1 A Yes. It says messages on 3/21. "Yo," is the
2 first one. And then Quitbiting Pullup tried to
3 call him right after that. And then he sent a
4 photo. It's the same photo as before. They sent
5 it with the stolen cell phone that's on his
6 dresser. And then he sends another photo.

7 Q And what's the date on this? Can you see it?

8 A That one is 3/21.

9 Q Okay.

10 A And it's just the phone flipped over to the
11 other side still on the dresser.

12 Q Okay.

13 A So now he asks Zyhene Scott, "Do you know
14 anybody looking for a tough ass Galaxy?" And then
15 there's --

16 The next message, "Got something you want."

17 He then tries to call Zyhene.

18 And then the next message is, "You still
19 looking for a PS4?"

20 The next message is, "Bit faking?"

21 Q Okay. State's Exhibit 60-A.

22 A So now Quitbiting Pullup is talking to a
23 Shane Owen. The first message is on 3/20/22. It
24 says, "Yo."

25 The next one, "Just brushed my teeth. About

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1 to smoke and jump on this game."

2 And then the next message down, "Get up
3 before sunrise every day. No motive. Got to make it
4 every day."

5 And then the next messages down is, "Playing
6 GTA now."

7 Q And State's 60-B is -- well, on page 431, the
8 following page.

9 A So this is right after he sent the message,
10 "Playing GTA now," he sends a video.

11 Q Is that State's 60-B?

12 A Yes.

13 Q And he sent -- is this another video he sends on
14 that same day?

15 A Yup.

16 Q That's also on 60-B?

17 A Correct.

18 Q This is the video in that first message?

19 A Yes.

20 (Video played.)

21 BY MS. MOLINA:

22 Q Is this the second video in that message?

23 A Yes.

24 (Video played.)

25 BY MS. MOLINA:

1 Q And State's Exhibit 60-D, is that the screenshot
2 from that first video?

3 A Yes. I just got to clarify. It's a screen
4 shot from that video we just watched. It's
5 showing the blue PlayStation there on the
6 left-hand side. It's kind of dark in this
7 picture. He's playing what looks like Grand Theft
8 Auto there, and this is inside Mr. Robinson's
9 house in the living room.

10 Q And State's Exhibit 60-C?

11 A Same thing. It's showing him playing right
12 there in the living room with the blue controller
13 right there in the foreground.

14 Q Okay. State's Exhibit 61?

15 A So this is on 3/18, so this is the day before
16 the incident. It says, "Yo," from Quitbiting
17 Pullup. He's trying to talk to a Sherife Flyer.
18 And then he called Sherife.

19 And then the next message down is "Yurrrp."

20 Q What's the date on these next messages?

21 A So now you're on 3/19. The next message
22 down, "Got a game now, Bra."

23 Q The next page of State's 61?

24 A So on 3/19, again, the date of the incident,
25 it says, "I ain't got a TV to put the bih on yet."

Testimony of Todd Duncan

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1 The next down, again on 3/19, "My nieces and
2 nephew are watching something. But I don't set it.
3 I'll do it when we get off."

4 The next one down, once again on the day of
5 the incident, "Get in. Dale police everywhere."

6 The next message -- sorry. Did you want me
7 to keep going?

8 Q You can.

9 A Okay. The next message down, "Quitbiting
10 Pullup is as asking Sherife, "You home?" And then
11 he tries to call Sherife. Missed call. A bunch
12 of missed calls.

13 Q State's Exhibit 62?

14 A So on 3/19, it says, "You got the van."
15 Quitbiting also asks, "White car, no tint, keep
16 riding up and down the road."

17 The next message: "I'm talking about back
18 and forth."

19 He messages, "Word."

20 And then No Faking replies, "Let me see that
21 phone."

22 Quitbiting Pullup responds, "Coming. Just
23 got out of the bathroom."

24 Q That's on 3/19?

25 A Yup. All that's on 3/19.

Testimony of Todd Duncan

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1 Q And the bottom of page 462 on State 62?

2 A So No Faking asks, he says, "you ain't trying
3 to hit Walmart right now, though?"

4 Q And then the top of 463?

5 A Quitbiting Pullup responds, "Phone going
6 straight in the machine."

7 Q Okay.

8 A And that's on 3/23.

9 Q Okay. Page 465 of State's Exhibit 62?

10 A So this is No Faking and Quitbiting Pullup
11 talking again on 3/23. No Faking, "Walmart?"

12 Quitbiting responds "Word. Going to the
13 machine."

14 Q And the following page? Go back to the previous
15 page, 465, who sends the message on the top of that?

16 A Quitbiting Pullup responds back. It says --
17 Quitbiting Pullup says, "Shit got to go," on 3/23.

18 So also on 3/23 Quitbiting Pullup says, "Got
19 you."

20 No faking responds, "Come out. I'm going to
21 get the car now."

22 "Word."

23 "We got to get Dave. We got to help get the
24 machine."

25 Q State's Exhibit 63?

Testimony of Todd Duncan

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1 A That's more messages between Quitbiting
2 Pullup and now it looks like Tommy Eagan. So on
3 3/19, so the date of the incident, "You know how
4 to get into a locked Galaxy?"

5 The message later is, "Word. Do you that
6 shit brand new? I'll take 50 on one."

7 (STATE EXH. 64, Facebook Records, was marked
8 for identification.

9 (STATE EXH. 65-A, Facebook Records, was
10 marked for identification.

11 (STATE EXH. 65-B, Facebook Records, was
12 marked for identification.)

13 (STATE EXH. 66, Facebook Records, was marked
14 for identification.)

15 BY MS. MOLINA:

16 Q I'm handing you State's 64, 65-A, 65-B, and 66.
17 Do you recognize those items?

18 A I do. They're additional Facebook records.

19 Q Can you identify State's Exhibit 64?

20 A So this is, once again, Quitbiting Pullup
21 talking to No Faking on 3/20.

22 Q And State's exhibit 65-A?

23 A It's messages between Quitbiting Pullup and
24 Tony Montana.

25 Q State's Exhibit 65-B?

1 A Once again, it's another video that
2 Quitbiting Pullup sends.

3 Q Is that the video referenced in 65-A?

4 A Yes.

5 Q And how do you know that?

6 A I watched it, verified it, put my initials
7 and dated it.

8 Q And are those fair and accurate depictions of the
9 record you received from Facebook?

10 A Yes.

11 Q And what is State's Exhibit 66?

12 A 66 is a photograph from Quitbiting Pullup.

13 Q Is that a screenshot from State's 65-B?

14 A Yes.

15 Q Is that a fair and accurate depiction of 65-B?

16 A From 65-B, yes.

17 MS. MOLINA: State moves State's Exhibits
18 64 through 66 into evidence.

19 MR. MCFADDEN: Renew my prior
20 objections.

21 THE COURT: Subject to your prior
22 objections.

23 (STATE EXH. 64, Facebook Records, was
24 entered into evidence.)

25 (STATE EXH. 65-A, Facebook Records, was

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1 entered into evidence.)

2 (STATE EXH. 65-B, Facebook Records, was
3 entered into evidence.)

4 (STATE EXH. 66, Facebook Records, was
5 entered into evidence.)

6 BY MS. MOLINA:

7 Q State 64, which you identified as messages between
8 Quitbiting Pullup, No Faking, and De'Quann, can you
9 read the messages, please?

10 A Yes. So this is on 3/19, the date of the
11 incident, Quitbiting Pullup says, "Fuck 12."

12 De'Quann Griswald responds back, "You good?"

13 Quitbiting responds to that, "Yes, log."

14 Q And in your training and experience as a law
15 enforcement office, what does "12" mean?

16 A 12 is like street slang for police.

17 Q And State's 65-A, which you identify as messages
18 with Tony Montana?

19 A So this is Quitbiting Pullup talking to
20 Montana on 3/19/22. He asked, "You know how to
21 get into a locked Galaxy?" And then the next
22 message down, he sends a video.

23 Q And that's on the same day?

24 A Yes, that's on the incident date of 3/19.

25 Q Okay.

Testimony of Todd Duncan
(Video played.)

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BY MS. MOLINA:

Q And can you identify the person in that video?

A Yeah. That's Jonathan Robinson.

Q And I'm showing you State's Exhibit 66.

A That is a screenshot in the video we just
saw.

Q That was sent on March 19th of 2022?

A Correct. And it looks like it's from inside
his residence.

Q Were you able to recover the messages between the
victim and the defendant?

A No. So, when we sent a search warrant to
Facebook, we have to send what we call a
preservation letter first. And that basically
freezes any accounts so Facebook can download
whatever is there and give us the records.

Well, we know the phone was either turned off
right after the incident, and Mr. Gecy earlier stated
that he was blocked by the defendant afterwards, so
I'm sure he was blocked and then all the messages were
deleted before we had the chance to send that
preservation letter in, so we don't have any of the
communications back and forth.

Q Were you are able to recover any of these stolen

Testimony of Todd Duncan

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1 items?

2 A The stolen items, yes. So we recovered the
3 Samsung Galaxy.

4 Q How did you recover it?

5 MR. MCFADDEN: Judge, I renew my specific
6 objection to the testimony about the phone and how
7 the information of the phone was located. I think
8 that's where we're going.

9 THE COURT: I assume that's where we're
10 going. Thank you. Noted for the record.

11 BY MS. MOLINA:

12 Q Did you receive information that the company may
13 have the phone?

14 A I did.

15 Q Okay. And can you tell us about what happened at
16 that point that you received information that this
17 company might have the phone?

18 A So, as I testified earlier too, when an
19 object is stolen and we have the serial number, we
20 place it into NCIC, which is like a database
21 that's, you know, nationalized. I believe the FBI
22 is in charge of it. Stolen items that we can --
23 have serial numbers they track, go into the
24 database, so we get basically an alert that this
25 phone has popped up in a private company's

1 possession and I'm alerted to that.

2 Q And did you get in contact with that private
3 company?

4 A I did.

5 Q Who is that private company?

6 A So the private company is called ecoATM. If
7 you remember earlier in the messages, Quitbiting
8 Pullup talks about going to Walmart. Well, ecoATM
9 is a kiosk at Walmart where you can sell cell
10 phones. You can, you know, put it inside of the
11 kiosk. It takes pictures of it along with your
12 ID. It takes pictures of you doing it. It's a
13 way to -- for the ordinary citizen to bring a
14 phone there that may be broken that you don't use
15 or anything and sell it to that company and get a
16 little bit of money for it and they can either
17 refurbish it, sell it again to somebody else, but
18 that's basically it, and I get the notification.

19 Q And did they send the phone back to you?

20 A They did. So I contacted them and said I
21 have a stolen cell phone, it's got this serial
22 number, they verified that. They gladly sent it
23 back to me. They're like, *We don't want to do*
24 *anything with stolen goods. Here's your phone*
25 *back.*

Testimony of Todd Duncan

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1 (STATE EXH. 36, Photo; Phone, was marked for
2 identification.)

3 (STATE EXH. 37, Photo; Phone, was marked for
4 identification.)

5 BY MS. MOLINA:

6 Q And I'm handing you State's Exhibits 36 and 37.
7 Do you recognize those photos?

8 A So this is the -- when they sent the phone
9 back, I got it through the mail and I photographed
10 it.

11 Q And that's a fair and accurate representation of
12 how you got the phone back?

13 A Yes.

14 MS. MOLINA: State moves State's Exhibits
15 36 and 37 into evidence.

16 MR. MCFADDEN: Judge, I renew my previous
17 objection and add a -- this is -- I should have
18 objected a little bit sooner, but to the testimony
19 about what the ATM does, the kiosk does, and how
20 it works, what it's used for, and an
21 authentication and a hearsay objection. I think
22 that the proper witness would have been a person
23 from that company to talk about how it works and
24 how it got to this alleged --

25 MS. MOLINA: I'll move on.

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1 THE COURT: Pardon.

2 MS. MOLINA: I'm moving on. I'm not
3 going to ask to ask any more questions about it.

4 THE COURT: Okay, thank you.

5 MS. MOLINA: But 36 and 37 in evidence?

6 THE COURT: Yes.

7 (STATE EXH. 36, Photo; Phone, was entered
8 into evidence.)

9 (STATE EXH. 37, Photo; Phone, was entered
10 into evidence.)

11 MS. MOLINA: Court's indulgence.

12 THE COURT: Yes.

13 BY MS. MOLINA:

14 Q Investigator Duncan, do you see the person in the
15 courtroom that you identified as Jonathan Robinson
16 based on the items you found in the search of [REDACTED]
17 Wimbee Trailer Court and the surveillance pictures as
18 part of your investigation?

19 A Yes, ma'am.

20 Q And can you please identify something he's
21 wearing?

22 A The salmon-colored shirt.

23 MS. MOLINA: Please let the record
24 reflect the witness has identified the defendant.

25 No further questions for this witness.

Testimony of Todd Duncan

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1 BY MS. MOLINA:

2 Q Please answer any the defense has.

3 A Yes, ma'am.

4 MR. MCFADDEN: May it please the Court?

5 THE COURT: Yes.

6 CROSS-EXAMINATION

7 BY MR. MCFADDEN:

8 Q Investigator Duncan, good afternoon, sir.

9 A Good afternoon.

10 Q Just a couple questions for you. I don't want to
11 disturb the stuff up here too much. I can just ask
12 about it. Just a couple points from your direct
13 examination. I want to take you back to the search
14 warrant of the house.

15 A Okay.

16 Q You-all collected a few items of physical evidence
17 here.

18 A Correct.

19 Q I'm looking at the sweatshirt, the shoes, and then
20 one more item. Isn't that right? And I'm referring
21 to now the BB gun.

22 A Correct.

23 Q So to be clear here, State's Number 33, is, I
24 think is what you described as a -- it's not written
25 on here. What's the brand?

1 A It should be on there. Beeman 17, I believe
2 it is.

3 Q Oh, okay. Beeman P17?

4 A Right.

5 Q So this item right here does not accept and fire
6 gun powder cartridges.

7 A No, it is a BB gun.

8 Q Okay. Meaning that -- this may be pretty obvious
9 for you, probably -- that it uses air, right, to push
10 a small metal bead through the end of it.

11 A I'll go in and say, I'm not a firearms
12 expert, but that is --

13 Q In your experience.

14 A My understanding of a BB gun is no, there's
15 no explosion inside of there. It uses some kind
16 of force to push a BB through it.

17 Q And that's what we have in State's 33.

18 A Correct.

19 Q And State's number 33 is what you testified to as
20 what you saw in -- well, the alleged -- the suspect's
21 hands in the stills from that surveillance footage?

22 A I can't say 100 percent that that's the gun
23 used in there but it made sense being with the
24 clothing in the room and it looks very similar to
25 the photograph. But, once again, I'm not there.

Testimony of Todd Duncan

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1 I can't say that was the gun 100 percent. You
2 can't see that on the video.

3 Q Certainly. But, per your review, they appear to
4 be similar or consistent to you, correct?

5 A Correct.

6 MR. MCFADDEN: Court's indulgence just a
7 second.

8 THE COURT: Okay.

9 MR. MCFADDEN: I don't have anything
10 further.

11 BY MR. MCFADDEN:

12 Q Thank you, Investigator Duncan.

13 THE COURT: Anything further?

14 REDIRECT EXAMINATION

15 BY MS. MOLINA:

16 Q Investigator Duncan, you said that you can't say
17 with a hundred percent certainly that the BB gun is
18 the gun that appears in this surveillance footage,
19 right?

20 A No, ma'am. I can't say 100 percent, no.

21 Q So there's a chance that the gun in the
22 surveillance can fire bullets?

23 A It's possible.

24 MS. MOLINA: No further questions.

25 THE COURT: Anything further, Mr. McFadden?

Testimony of Brian Fahey

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1 MR. MCFADDEN: Nothing from the defense.

2 THE COURT: All right. You may step
3 down. Thank you.

4 MS. MOLINA: The State calls Brian Fahey.

5 THE CLERK: Raise your right hand. Do
6 you solemnly swear or affirm to truthfully answer
7 all questions asked of you by this Court so help
8 you God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you. Thank you. Have
11 a seat right here. Say your first name and last
12 name and spell your last name for the Court.

13 THE WITNESS: My name is Brian Fahey.
14 Last name is spelled F-a-h-e-y.

15 WHEREUPON:

16 BRIAN FAHEY,
17 after having been sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. MOLINA:

20 Q Good afternoon. Where do you work?

21 A I work at ecoATM.

22 Q What is ecoATM?

23 A ecoATM is a company. We purchased used
24 electronics. We have kiosks across the country
25 where people can take their phones or tablets and

Testimony of Brian Fahey

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1 sell them for cash.

2 Q And, I guess, what is, kind of, the mission
3 statement of ecoATM?

4 A I mean, it started -- really the company was
5 about finding a way for people to get a little
6 extra cash for devices they are no longer using.
7 And it's also important for the company to make
8 sure that when we do take in devices that they are
9 recycled properly and disposed of in a sustainable
10 manner.

11 Q And is that the "eco" part of ecoATM?

12 A It is, yes.

13 Q People's phones contain information. Are there
14 security features in the kiosks that you guys use?

15 A Yes, there are security features. So it does
16 vary by location where the kiosk is, but we do
17 make sure that there are securities that make sure
18 all local regulations are followed. So, someone
19 brings a phone to the kiosk that they want to
20 sell, they're going to have to actually place
21 their driver's license inside of the machine. And
22 then, if they do decide to proceed with the quote
23 that they've received from the machine, there's
24 actually a live person at our headquarters in San
25 Diego, California, that will actually approve or

1 deny. And what they're looking for is, does the
2 person that's in the photo that they can see who
3 is standing in front of the kiosk does that match
4 the person that is shown on the ID that was placed
5 in the kiosk.

6 Q Do you-all accept stolen property?

7 A Not knowingly. It does happen. We have
8 about 6,000 kiosks across the country now. We
9 take in roughly 100,000 devices a week. And so,
10 just based on that, you can imagine that we are
11 going to come across some phones that are stolen.

12 Now, when someone does bring a phone to the
13 machine, if it's able to be powered on, it will be
14 plugged into the machine and we will actually run an
15 IMEI check to confirm that it's not in a list of
16 stolen phones. I believe the database is called
17 CheckMEND that we use.

18 Q And if it can't be turned on?

19 A If it can't be turned on, we will accept the
20 phone. But once it gets to our processing
21 facility -- the phone are picked up weekly
22 basically. We have a processing facility in
23 Louisville, Kentucky, that once it's there -- we
24 do have additional tools normally where they can
25 actually get the phone powered on and

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1 electronically interrogate and basically pull the
2 IMEI number or serial number off of the device.
3 It's very rare where they're unable to do that.

4 At that time, if we find out that the phone
5 had been stolen, we do report all of our transactions
6 to law enforcement. We have a varying methods of how
7 we do that state by state. In South Carolina, we do
8 report through LeadsOnline, which is a service that
9 law enforcement uses.

10 So if someone comes to them and files a
11 police report and says, *Here's my phone. This is the*
12 *IMEI number.* And just to confirm, the IMEI number,
13 I'm not sure if it's been discussed, it's to a cell
14 phone what the VIN number is to a car. It's a unique
15 identifier. There's only one per device and there's
16 no duplicates.

17 So, law enforcement enters that IMEI into the
18 LeadsOnline system. We report to that system. Law
19 enforcement will get a hit on it and they'll see, hey,
20 this IMEI matches this phone that was sold to your
21 kiosk. I get a request direct from law enforcement or
22 through the LeadsOnline system telling us, hey, please
23 put this device on hold while we do our investigation,
24 and that's what we do.

25 Q Can they also be tracked through serial numbers?

1 A They can be tracked through serial numbers.

2 When it comes to cell phones, though, IMEI is the
3 best way to do it because there truly is only one
4 unique IMEI per phone.

5 (STATE EXH. 38, ecoATM; Terms and
6 Conditions, was marked for identification.)

7 BY MS. MOLINA:

8 Q And, as part of the transaction, I'm going to hand
9 you State's Exhibit 38, for demonstrative purposes.

10 As part of the transaction, are there terms
11 and conditions the seller has to agree to in order to
12 complete the transaction?

13 A There are, yes. There are a few things that
14 are listed in the terms and conditions. One is
15 the person acknowledging that they're over 18
16 years of age. We will not accept devices from
17 anyone who is under 18. They are also stating
18 that they are the rightful owner of the device or
19 they've been authorized by the owner of the device
20 to sell it.

21 The other is that they acknowledge that they
22 have canceled service with the phone. Some people
23 will try to, you know, sell the phone in the machine
24 and they still have payments on it. Like, if they're
25 paying through the company and then -- you know, it

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1 ends up being a situation where that phone is locked
2 through that particular network. So we genuinely try
3 to make sure that that's not something that happens.

4 And then the final thing is, we do make it
5 clear right from the beginning with our experience
6 with interacting with the actual kiosk that we do
7 report all information to law enforcement.

8 Q Is State's Exhibit 38 an example of what that
9 final step would look like during a transaction?

10 A Yes. There's basically -- there's a screen
11 that will show you exactly what you're
12 acknowledging. It's not a very -- you know, as
13 far as terms and conditions go, usually it's
14 pretty lengthy. It's just a couple of paragraphs
15 explaining that, and you may have to click "I
16 agree" to actually accept it.

17 MS. MOLINA: Permission to publish
18 State's 38 for demonstrative purposes.

19 MR. MCFADDEN: Judge, subject to -- or I
20 would renew my previous objections pretrial to
21 this and all the remainder.

22 THE COURT: This is just an example one,
23 correct?

24 MS. MOLINA: Yes, ma'am.

25 THE COURT: Okay. You can go ahead.

1 MS. MOLINA: Thank you.

2 BY MS. MOLINA:

3 Q Okay. So is this, kind of, an example of what
4 somebody selling their phone to a kiosk might see?

5 A Yes.

6 Q And they have to acknowledge before continuing,
7 correct?

8 A Yes.

9 Q And this is like when we're talking about the
10 final, kind of, step, and the question for terms and
11 conditions at least, but you have to agree and
12 acknowledge that it will be information given to law
13 enforcement and that you are releasing your rights and
14 liabilities for the phone to ecoATM.

15 A Correct.

16 Q Agree to sell it, basically.

17 A Yeah.

18 Q And it looks -- can you back out if you change
19 your mind?

20 A Yeah, if you don't want to, you don't have
21 to, obviously. At this point, your phone is
22 actually -- there's a little flap in the machine
23 that opens up and then closes, so your phone is in
24 the machine. If you click agree at this point,
25 you're done, basically. The phone will drop into

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1 a bin and you will receive cash from the side of
2 the machine, but you can at this point still back
3 out.

4 Q Okay. As part of your ordinary course of business
5 are records of transactions kept?

6 A Yes.

7 Q And are those records made contemporaneously as in
8 as the phones come in?

9 A Yeah. So most of that -- the stuff on the
10 transaction report, which I don't know if you've
11 shown yet, is created at the time of the actual
12 transaction. And then the only thing that could
13 potentially be updated is if once the phone
14 arrives at the processing facility or warehouse,
15 at that point, they are able to pull the IMEI,
16 just in case they weren't able to do it at the
17 kiosk, then the report would be updated with the
18 IMEI number or serial number.

19 (STATE EXH. 67, End Dealer Report, was
20 marked for identification.)

21 (STATE EXH. 39, Photo of Device in Kiosk,
22 was marked for identification.)

23 (STATE EXH. 40, Photo of Device in
24 Kiosk, was marked for identification.)

25 (STATE EXH. 41, Photo; Lower Angle of

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1 Seller, was marked for identification.)

2 (STATE EXH. 42, Photo; Straight-On Head
3 Shot of Seller, was marked for identification.)

4 (STATE EXH. 43, Photo; Above View of Seller,
5 was marked for identification.)

6 (STATE EXH. 44, Photo; Driver's License
7 of Seller, was marked for identification.)

8 BY MS. MOLINA:

9 Q Okay. I'm going to hand you 67 and 39 through 44.
10 If you could just take them and look at them and tell
11 me if you recognize them.

12 A Yes. Exhibit 67 is our standard -- it's
13 referred to second-end dealer report mainly
14 because we're regulated as a second-end dealer in
15 most locations. But it's transaction report with
16 all the details; date, time, location, model of
17 the phone, and all that. Seller information
18 that's pulled from the driver's license.

19 Q And those are made and kept in your ordinary and
20 regular course of business?

21 A Correct.

22 Q What about state 39 through 44, do you recognize
23 those?

24 A Yes. 39 is photo of the device, the phone
25 actually inside of the kiosk. It takes a picture

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1 of the front and the back of the phone.

2 It looks like Exhibit 40 is the front of the
3 phone. Sorry, did you just say 39 and 40?

4 Q Through 44.

5 A Through 44.

6 Q Yes, sir. Thank you.

7 A And then the additional, 41 is one of the
8 three different angles we take photos of the
9 seller. The photos aren't taken until the person
10 presses that agree button, but there are three
11 different angles. This is one of them from a
12 lower angle.

13 42 is the straight-on head shot photo.

14 Exhibit 43 is an above-view photo. It
15 sometimes captures other stuff, other people standing
16 around the kiosk.

17 And then 44 is the actual photo of the
18 driver's license that was placed inside of the kiosk.

19 Q And those are all fair and accurate depictions of
20 the records that you-all keep?

21 A Correct.

22 MS. MOLINA: And State moves State's 67
23 and 39 through 44 into evidence.

24 MR. MCFADDEN: Renew my pretrial
25 objections.

1 THE COURT: Noted for the record. You
2 may enter and publish.

3 MS. MOLINA: Thank you, ma'am.

4 (STATE EXH. 67, End Dealer Report, was
5 entered into evidence.)

6 (STATE EXH. 39, Photo of Device in Kiosk,
7 was entered into evidence.)

8 (STATE EXH. 40, Photo of Device in
9 Kiosk, was entered into evidence.)

10 (STATE EXH. 41, Photo; Lower Angle of
11 Seller, was entered into evidence.)

12 (STATE EXH. 42, Photo; Straight-On Head
13 Shot of Seller, was entered into evidence.)

14 (STATE EXH. 43, Photo; Above View of Seller,
15 was entered into evidence.)

16 (STATE EXH. 44, Photo; Driver's License
17 of Seller, was entered into evidence.)

18 BY MS. MOLINA:

19 Q Starting with State's 67 -- and this is your
20 report you-all -- that you were talking about?

21 A Correct.

22 Q And the information at the top, whose information
23 is this portion?

24 A So that top-left portion there, customer
25 info, is pulled directly from the driver's license

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1 or identification card that was placed in the
2 kiosk.

3 Q And in this transaction who is that customer?

4 A That would be Jonathan Jabreal Robinson.

5 Q Okay. And what about this information, what does
6 that mean?

7 A So that's details about the date, time of the
8 transaction. You can see that it was March 24,
9 2022, at around 3:24 p.m. The next number, the
10 long buy number is a number that's assigned to any
11 sale as far as that can be used to merchandize is
12 concerned. So it's basically, I guess, kind of a
13 receipt number. Just a way to look up that
14 particular transaction. Sometimes we'll get
15 requests from law enforcement that don't
16 necessarily have the IMEI. They'll just have the
17 loan number in there because that's how they
18 identify the transaction on their end. So that's
19 what that number is.

20 The next one down is transaction indicating
21 that there was a sale of the phone and we paid out
22 \$145 for that.

23 And then the bottom one is payment method
24 just indicating that it's cash. Ninety-nine percent
25 of our transactions are cash. We've experimented with

1 Venmo and other digital payments, but most of them are
2 cash.

3 Q And then this portion?

4 A So this is the store info. Just basically
5 where the kiosk is located. The license number
6 there, the reason that's blank, that would refer
7 to -- as I mentioned before, on some locations
8 we're regulated as a second-end dealer which would
9 require us to have a license. So our license
10 number there would be entered there.

11 In this case, we just have a city business
12 license here in Beaufort, so there's no second-end
13 user license. That's why that's a blank.

14 Q So this section identifies the store in which the
15 kiosk and the phone -- the transaction occurred?

16 A Exactly. Walmart store number 1383, the
17 address at kiosk 350 Robert Smalls Parkway. And
18 the kiosks are almost always just located, kind
19 of, within the entry vestibule where you see Red
20 Box, Coin Star, stuff like that.

21 Q Okay. And this item section?

22 A Yes. This is where there will be a
23 description of what's being sold. In this case,
24 it's a cell phone. Color is black. As far as you
25 can tell right there, the initial color on there

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1 is basically being determined, if it can't be
2 pulled directly from the phone from the actual
3 photos itself.

4 The brand name is Samsung. They'll also pull
5 the model information. So you have Galaxy S21.

6 The next number over is our individual bar
7 code. So you'll notice -- I don't remember which
8 exhibit it was, but there was an exhibit that showed
9 the back of the phone with a little sticker on it. So
10 that's actually printed off before the phone is placed
11 inside of the machine. And that basically just helps
12 us track the phone all the way along the process, so
13 when it's picked at the kiosk, when it gets delivered
14 at the processing center, it's checked in there. They
15 evaluate everything. That's our code that we create.
16 So that will stay with the phone the entire way.

17 Q And that was the sticker on the back of the phone
18 on State's Exhibit 39.

19 And it also -- the item contains that IMEI
20 and serial number?

21 A Uh-huh.

22 Q Okay. And then what about this section -- there
23 are two sections here?

24 A Yeah. So the first one there is the ID
25 image, so that's just the scan that was taken of

1 the license or the identification card that was
2 placed in the machine.

3 The blank section to the right, in some
4 jurisdictions, we require a fingerprint. It's not the
5 case here in this area. But sometimes, if there was
6 that requirement, there would be fingerprint there as
7 well.

8 And then the final section are the web cam
9 images I discussed previously. You have the straight
10 head shot, you have one that's from a lower angle, and
11 then the top view.

12 Q Okay. And State's Exhibit 49, the license that
13 was placed into the machine that we saw in the
14 report?

15 A Yes.

16 Q And that's State's Exhibit 44.

17 State's Exhibit 41, is this one of the
18 pictures from the angle of -- the lower angle taken by
19 the kiosk?

20 A Correct.

21 Q State Exhibit 43, is that the high angle you were
22 talking about?

23 A Yes.

24 Q State Exhibit 42, is that the straight-on picture
25 during the transaction?

1 A Yeah.

2 Q And this lower section, what's that?

3 A So on the bottom left is just basically the
4 electronic acknowledgement. There's not like a
5 physical -- there's not an actual signature
6 required. This is just acknowledging that they
7 clicked that "Agree," agreed to the terms and
8 conditions, and so they were the owner of the
9 property or authorized to sell it.

10 The box to the right of it is which ecoATM
11 the employee actually verified this. So we do have
12 someone remotely at our headquarters in San Diego that
13 reviews all these transactions in real time and will
14 approve or deny it, and so that's the name of the
15 agent that approved the transaction.

16 Q Okay. No further questions. Please answer any
17 the defense has.

18 THE COURT: Mr. McFadden?

19 MR. MCFADDEN: I don't have any
20 questions.

21 THE COURT: Any objection to this witness
22 being excuse from anyone?

23 MR. MCFADDEN: None.

24 MS. MOLINA: No objection.

25 THE COURT: You're excused, sir. Thank

1 you.

2 THE WITNESS: Thank you.

3 THE COURT: Ladies and gentlemen, we're
4 going to take a very brief recess at this time. I
5 remind you, do not discuss this case. It wouldn't
6 be appropriate to do so. We'll bring you right
7 back out here.

8 And, Mr. Foreperson, do you mind talking
9 with the jury for me at the break and asking what
10 time they are willing to work till today. We
11 don't have to push anything for the time. We're
12 not going to finish today, so there's no reason to
13 go anything long. But I just need to know if
14 anyone has a prior engagement and they need to be
15 there.

16 All right. So you're excused back to
17 your jury room. I appreciate it. Thank you.

18 (Jury exits the courtroom at 3:29 p.m.)

19 THE BAILIFF: The jury is clear, Your
20 Honor.

21 THE COURT: Anything else from the State
22 before we take a break?

23 MS. MOLINA: Nothing from the State. I
24 will let the Court know that I have one more
25 witness and it will be a very quick one.

1 THE COURT: All right. Do you anticipate
2 calling anyone?

3 MR. MCFADDEN: No, Judge.

4 THE COURT: We can do the charge argument
5 in the morning based on the time. It's after
6 3:30. Sounds good? We'll do that. We'll be at
7 ease for ten minutes.

8 (A break was taken from 3:20 p.m. to 3:34 p.m.)

9 THE BAILIFF: All rise. This court is
10 back in session.

11 THE COURT: Please be seated. We just
12 need your client.

13 MR. MCFADDEN: Yes, ma'am. I think
14 they're getting him now.

15 THE COURT: Perfect.

16 All right. Are we all ready to go to
17 bring the jury back in? Bring the jury back in,
18 Marshall.

19 THE BAILIFF: Yes, ma'am.

20 (Jury enters the courtroom at 3:35 p.m.)

21 THE COURT: State want to call its next
22 witness.

23 MS. MOLINA: State calls Adam Kremer.

24 THE CLERK: Can you raise your right
25 hand?

1 THE WITNESS: Yes, ma'am.

2 THE CLERK: Do you solemnly swear or
3 affirm to truthfully answer all questions asked of
4 you by this Court so help you God?

5 THE WITNESS: Yes, ma'am.

6 THE CLERK: Okay. Have a seat right
7 here. Say your first name and last name and spell
8 your last name for the Court. Thank you.

9 THE WITNESS: Adam Kremer. Last name is
10 spelled K-r-e-m-e-r.

11 WHEREUPON:

12 ADAM KREMER,
13 after having been sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. MOLINA:

16 Q Where do you work?

17 A Beaufort County Sheriff's Office.

18 Q How long have you been with the Beaufort County
19 Sheriff's Office?

20 A Five years.

21 Q Were you working on April 4, 2022?

22 A Yes, ma'am, I was.

23 Q Okay. And were you involved in the arrest of
24 Jonathan Robinson?

25 A Yes, ma'am.

1 (STATE EXH. 45, Photo; Kremer Body Cam, was
2 marked for identification.)

3 (STATE EXH. 46, Photo; Kremer Body Cam, was
4 marked for identification.)

5 BY MS. MOLINA:

6 Q I'm going to hand up State's Exhibit 45 and 46.

7 A Okay.

8 Q If you can just take a look at those for me. Do
9 you recognize those pictures?

10 A I do.

11 Q And what are they?

12 A These are images of Jonathan Robinson I'm
13 assuming from my body camera.

14 Q Is that how he looked --

15 A Yes, ma'am.

16 Q -- on the night of your interaction?

17 A Yes, ma'am.

18 Q And it's a fair and accurate depiction?

19 A Yes, ma'am.

20 MS. MOLINA: State moves 45 and 46 into
21 evidence.

22 THE COURT: Any objection?

23 MR. MCFADDEN: No objection.

24 THE COURT: Without objection.

25 (STATE EXH. 45, Photo; Kremer Body Cam, was

1 entered into evidence.)

2 (STATE EXH. 46, Photo; Kremer Body Cam, was
3 entered into evidence.)

4 MS. MOLINA: No further questions for
5 this witness.

6 MR. MCFADDEN: Nothing from the defense.

7 THE COURT: All right. You may step
8 down. Thank you, sir.

9 All right. Anything further from the
10 State?

11 MS. MOLINA: The State rests their case
12 at this point.

13 THE COURT: Very good. Ladies and
14 gentlemen of the jury, there is a very brief
15 matter I need to take up with the attorneys. I'm
16 going to send you back to your jury room and we'll
17 bring you right back out very quickly. I remind
18 you, do you not discuss this case. It wouldn't be
19 appropriate to do so and we'll be right back with
20 you. Okay, thank you.

21 (Jury exits the courtroom at 3:38 p.m.)

22 THE BAILIFF: The jury has left the
23 courtroom, Your Honor.

24 THE COURT: Okay. Mr. McFadden, any
25 motions?

1 MR. MCFADDEN: Thank you, Judge.

2 Briefly, pursuant to rule 19, I make a
3 directed verdict motion, that the State has no
4 evidence specifically in this case as to the armed
5 robbery and possession of a weapon during a
6 violent crime. We argue that the only meaningful
7 evidence submitted to the jury regarding any armed
8 issue was a BB gun, and, respectfully, we would
9 move that that fails as evidence to support the
10 charge of armed robbery. Thank you. And
11 possession of a weapon during a violent crime.

12 THE COURT: Okay. You can go ahead and
13 answer, Miss Molina.

14 MS. MOLINA: Thank you. Just to respond
15 for briefly, the evidence and the witnesses have
16 testified that on March 19th, 2022, in Beaufort
17 County, the victim was robbed of a PlayStation
18 games controller, a phone, and watch, and that he
19 was robbed while being held at gunpoint, or what
20 appeared to be a gun, and the representation and
21 the belief that it was a deadly weapon. And
22 directed verdict is any evidence of the elements,
23 so the State asks that the motion be denied.

24 THE COURT: Well, taking the evidence in
25 the light most favorable to the State, there is

1 evidence from which the jury could conclude --
2 there's circumstantial and direct evidence that
3 the defendant is guilty of both armed robbery and
4 possession of a weapon during the commission of a
5 violent crime.

6 So is now a good time for me to go through
7 your client's Fifth Amendment rights?

8 MR. MCFADDEN: Yes, ma'am. I let him
9 know that was probably coming and he's ready for
10 that.

11 THE COURT: All right. Sir, will you
12 please stand and raise your right hand. The clerk
13 is going to swear you in, sir.

14 THE CLERK: Do you solemnly swear or
15 affirm to truthfully answer all questions asked of
16 you by this Court so help you God?

17 MR. ROBINSON: I do.

18 THE COURT: All right. Thank you, Mr.
19 Robinson. You can take a seat. That's fine.

20 Mr. Robinson, we've come to that point in
21 the trial where you may present your defense. I
22 want you to know that the Fifth Amendment to the
23 Constitution states in part that no person is
24 required to be a witness against themselves. What
25 that means is that the State cannot make you take

1 the stand, they cannot force you to defend
2 yourself or to take the stand. However, sir, I
3 want to make sure you understand that you have the
4 right to, if would like to, to testify in this
5 case. You just need to understand that if you do
6 testify, the State will be able to examine you and
7 cross-examine you on any relevant evidence that I
8 deem is admissible in this case. Additionally, if
9 you have any prior records that are -- I'm sorry,
10 prior convictions on your record that qualify to
11 be used against you, they will be able to use
12 those as well.

13 Have you had an opportunity to speak with
14 your lawyer about whether or not you wish to testify,
15 sir?

16 MR. ROBINSON: Yes, ma'am.

17 THE COURT: Do you want to testify in
18 this case?

19 MR. ROBINSON: No, ma'am.

20 THE COURT: All right, sir. And is that
21 decision made of your own free will and accord?

22 MR. ROBINSON: Yes, ma'am.

23 THE COURT: All right, sir. I find that
24 you have intelligently and with knowledge have
25 made that decision.

1 So, at this point, what I'd like to do
2 for all of you, we'll bring the jury back out.
3 I'm going to have you just rest for the record,
4 Mr. McFadden. And then we'll go ahead and I'm
5 going to send them home for the day. You'll renew
6 your motions, and then we'll talk about the jury
7 charge and then we'll break early. The timing is
8 excellent because this jury only wanted to work
9 until 4:30, so it's all good. They had other
10 things going on.

11 Do you know, Miss Molina, or do you know what
12 we have to do tomorrow other than this trial?

13 MS. MOLINA: I don't know, but I can ask
14 somebody to find out from Mary Jordan.

15 THE COURT: Okay. My thought is, let's
16 bring the jury back at 10 o'clock tomorrow. Do
17 you have a list or anything?

18 THE CLERK: I know the one from Jamie
19 about the one plea.

20 THE COURT: The one plea at like 3:30. I
21 know that.

22 THE CLERK: Yes.

23 THE COURT: Okay. Well, I figured we'll
24 just bring the jury back at 10:00 so it will give
25 us a little extra time in the morning and we'll go

1 ahead and wrapup this case.

2 MS. MOLINA: Yes.

3 THE COURT: All right. So let's bring
4 the jury back in and, Mr. McFadden, you can just
5 rest for them formally.

6 MR. MCFADDEN: Yes, ma'am.

7 (Jury enters the courtroom at 3:45 p.m.)

8 THE COURT: Mr. McFadden.

9 MR. MCFADDEN: Thank you, Your Honor. At
10 this time, the defense rests.

11 THE COURT: Ladies and gentlemen, at this
12 time the defense has also rested their case. What
13 we have left to do is hear the closing arguments
14 from the lawyers and my charge on the law and that
15 to you. We have a rule of thumb in court, we
16 don't do that after three o'clock because that
17 whole process takes a good bit of time. So I am
18 asking that you return back to hear the closing
19 arguments and my charge on the law at 10:00 a.m.
20 tomorrow morning.

21 Is that acceptable for everyone? Very good.

22 Ladies and gentlemen, even though you
23 have heard all the evidence, again, you have not
24 heard their closing arguments, you haven't heard
25 my charge, it would be inappropriate for you to

1 discuss this case. It would be inappropriate to
2 do outside research.

3 Ladies and gentlemen, I simply ask, just
4 go home, get a good night's rest. We look forward
5 to seeing you all back here tomorrow morning at
6 10:00 a.m. where we will conclude the case. I
7 will also tell you that all of my other cases have
8 resolved or been continued in some way or form.
9 So when you finish this case, your jury duty will
10 be over when you complete and come to a verdict in
11 this case. All right.

12 So, again, I want to thank you, ladies and
13 gentlemen, and I look forward to seeing you tomorrow
14 morning at 10:00 a.m.

15 THE BAILIFF: Jury is clear, Your Honor.

16 THE COURT: All right. Mr. McFadden, you
17 want to go ahead and renew your motion?

18 MR. MCFADDEN: Yes, ma'am.

19 Respectfully, at this time, we will renew our
20 pretrial motions that I raised regarding admissibility
21 of certain evidence at issue. I also renew my rule 19
22 directed verdict motion.

23 THE COURT: Okay.

24 MS. MOLINA: And the State rests on its
25 previous arguments.

1 THE COURT: Thank you.

2 Well, again, based on my earlier ruling,
3 we're going to send this case to the jury. I think
4 there is certainly evidence from which this jury could
5 determine the defendant's guilty on both these
6 charges.

7 I'd like to go ahead right now and just go
8 through the jury charges. It's pretty straight
9 forward in this case. I am going to charge the
10 presumption of innocence, obviously reasonable doubt,
11 the jury is the judge of the facts, I'm the judge of
12 the law. I'm going to charge direct and
13 circumstantial evidence. I am going to charge
14 credibility of witnesses is for the jury to judge. I
15 am going to charge that the fact the defendant did not
16 testify cannot be discussed back in the jury room,
17 that it wouldn't be appropriate. I am going to
18 charge, obviously, armed robbery. And I'm going to
19 charge possession of a weapon during the commission of
20 a violent crime. And, obviously, their verdict must
21 be unanimous and they must be a fair and impartial
22 jury.

23 And can anyone else think of anything else
24 that they would like charged? From the State?

25 MS. MOLINA: Nothing from the State.

1 THE COURT: From the defense?

2 MR. MCFADDEN: Judge, in all candor to the
3 Court, I have not had this conversation with my client
4 yet. I have a request to charge strong arm, if that's
5 even a request that Your Honor would consider in this
6 case as a lesser included. Maybe the best course,
7 again -- this is my fault. Can I stand back here and
8 talk to him about it?

9 THE COURT: We can talk about it
10 tomorrow. But I actually have thought about this.
11 The problem I have with this is, obviously, you
12 know, this BB gun and based on the appearance of
13 the gun, you know, it fits armed robbery. They
14 either believe that was him or they believe it
15 wasn't him. So I think it's one way or the other.
16 I just don't see the evidence for a lesser
17 included. They would have to ignore my charge on
18 the law of what an actual deadly weapon is, or --
19 I'm sorry -- the armed robbery would appear to be
20 a gun. They would have to ignore the law on that
21 to be able to find it just being strong armed
22 robbery. That's the only concern I have about
23 it.

24 MR. MCFADDEN: So if the issue is moot,
25 there's nothing else additional that I would ask

1 for.

2 THE COURT: Unless you can find me some
3 argument --

4 MR. MCFADDEN: Okay.

5 THE COURT: -- that when it's a BB gun,
6 that maybe, for some reason -- but again, I mean,
7 you just look at the definition of what an armed
8 gun is -- I'm sorry. An armed robbery is.

9 MS. MOLINA: Judge, I have case law that
10 a BB gun can be considered a deadly weapon. It's
11 in the context of directed verdict for the jury to
12 decide, but also that was before the statute was
13 amended to include that second part, or while
14 alleging -- "Either by action or words, he was
15 armed while using representation of a deadly
16 weapon." In this case, it's this case there is a
17 representation of a deadly weapon on the
18 surveillance video. The issue is ID, not facts
19 differing on whether a gun or what appeared to be
20 a gun was used in this case.

21 The State would strongly object to strong
22 armed, and also for the reasons that you stated.

23 THE COURT: Anything further?

24 MR. MCFADDEN: Nothing. No, Judge,
25 nothing further.

1 THE COURT: Okay.

2 MR. MCFADDEN: I just ask for the
3 opportunity to take a look at that case that she's
4 referencing.

5 MS. MOLINA: Oh, sorry.

6 MR. MCFADDEN: If I feel strongly about
7 something, I can raise it in the morning, if that
8 suits Your Honor.

9 THE COURT: I think that's good. Can you
10 forward me that case as well or do you have a copy
11 of it?

12 MS. MOLINA: Yes. I'll get it right
13 now.

14 THE COURT: That would be great. Thank
15 you.

16 Obviously I'm not going to charge that
17 case law because that's not appropriate. It would
18 be a comment on facts.

19 MS. MOLINA: Right.

20 THE COURT: I just want to make sure
21 everyone understands that.

22 I'll also show you, I think you already have
23 a verdict form. If you don't mind, if you'll walk
24 that over to them and show them to see if there's any
25 objection. I mean, it's just a two-question form.

1 Obviously, if they don't find him guilty on the first
2 one, they can't consider the second one.

3 MR. MCFADDEN: No objection from the
4 defense.

5 MS. MOLINA: No objection from the
6 State.

7 THE COURT: I appreciate it. Thank you.

8 All right. So tomorrow morning, since we're
9 starting at 10:00, if you'll just be here about
10 quarter till. Is that all right? We'll have
11 everyone. We'll have Mr. Robinson here. We'll be
12 ready to go straight into closing arguments,
13 obviously, and then we'll charge him and we'll send it
14 to them.

15 Will you ask Mary Jordan, just shoot her an
16 email or someone, just saying, what else do you want
17 to do while the jury is out? Or whatever else we're
18 doing is fine by me.

19 MS. DEANGELIS: We did talk to Mary
20 Jordan. I just messaged here. She said there's
21 the plea at 3:30.

22 THE COURT: Right.

23 MS. DEANGELIS: She said that will take
24 some time. She's trying to set up another jail
25 plea. Besides that, I don't think there was

1 anything planned, but she might be able to add
2 some things. She's talking to the defense
3 attorneys.

4 THE COURT: Sounds good.

5 All right. I'll see you-all in the morning.

6 Thank you.

7 (The trial was adjourned.)

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1 CERTIFICATE OF REPORTER

2
3 I, SHARON G. HARDOON, Official Circuit
4 Court Reporter, III for the State of South Carolina at
5 Large, do hereby certify that the foregoing is a true,
6 accurate and complete Transcript of Record of the
7 proceedings had and evidence introduced in the trial
8 of the captioned case, relative to appeal, in General
9 Sessions Court for Beaufort County, South Carolina.

10
11 I do further certify that I am neither kin,
12 counsel, nor interest to any party hereto.
13
14

15 December 12, 2024
16

17 
18

19 _____
20 Sharon G. Hardoon, CSR
21 Official Circuit Court Reporter, III
22
23
24
25

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF BEAUFORT

4 State of South Carolina,
5 vs. Transcript of Record
6 2022-GS-07-00529,
7 2022-GS-07-00530
8 Jonathan J. Robinson, III,
9 Defendant.

10 June 5, 2024
11 Beaufort, South Carolina
12 Volume III

13 B E F O R E:

14 The HONORABLE CARMEN MULLEN

15 A P P E A R A N C E S:
16

17 Samantha Molina, Assistant Solicitor
18 Rachel DeAngelis, Assistant Solicitor
19 Jacob McFadden, Representing the defendant
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1 THE COURT: Good morning.

2 MR. MCFADDEN: Judge, could we wait for
3 my client?

4 THE COURT: Sure.

5 MR. MCFADDEN: Sorry.

6 THE COURT: No, no, no. I appreciate you
7 reminding me.

8 All right. Good morning, Mr. Robinson.

9 For the record, one of the things I
10 thought of overnight was, because identification
11 is an issue in this case, who the assailant is. I
12 have decided to put in an ID charge, a standard,
13 you know, what we call our investment charge. I
14 showed it to both of the lawyers. There's no
15 opposition from the State?

16 MS. MOLINA: Nothing from the State.

17 THE COURT: No from the defense, correct?

18 MR. MCFADDEN: No, ma'am.

19 THE COURT: Secondly, it's my
20 understanding that you want to argue for the
21 lesser included of strong armed robbery; is that
22 correct?

23 MR. MCFADDEN: Judge, only because I
24 didn't formally request it yesterday, respectfully
25 and after now having had a full opportunity to

1 discuss it with my client, we would respectfully
2 request the Court consider a charge on the lesser
3 included of strong armed robbery. The rule being,
4 the trial court should charge on a lesser included
5 if there's any evidence in which it would be
6 inferred that the lesser rather than the greater
7 offense was committed. Here we submit that there
8 is evidence intending to show that the lesser
9 included could have been committed if the jury --
10 if that the issue of fact is left, let the jury
11 hear the whether -- or what was used during the
12 alleged robbery. Whatever ambiguous object could
13 be discerned from the surveillance footage or the
14 BB gun here that been admitted into evidence and
15 the issue created that either of those things
16 could constitute a deadly weapon or would be a --
17 could be reasonably construed as a deadly weapon.

18 So we'll argue that he should be entitled to
19 that and ask Your Honor to charge that.

20 THE COURT: Okay. Let me hear from the
21 State.

22 MS. MOLINA: The State would object to
23 including the lesser included of strong armed
24 robbery. I don't think there's any evidence
25 that -- to support a strong arm. In the

1 surveillance video, you can clearly see what
2 appears to be a gun. The issue in this case is
3 not whether or not a gun was used, but who is the
4 one robbing the victim. It would -- including a
5 strong arm would ask the jury to ignore portions
6 of what you will charge them on the law for armed
7 robbery and it's not appropriate in this case.

8 THE COURT: Okay. I don't think,
9 Mr. McFadden, this is a case where it appeared to
10 be something other than -- or potentially it could
11 have been something other than what appeared to be
12 a firearm. If it were some type of -- I don't
13 know -- a home model or something, you know, odd
14 or different. The only thing I'm thinking of,
15 let's throw it out there, it looks like a potato
16 gun, or something along those lines, that maybe
17 could be very odd and very different, although it
18 still is made to eject projectiles, so I guess you
19 could arguably say one is. But I think in this
20 case, and I think the whole purport of the statute
21 is that the gun is used as a threat and it's to
22 get people to do, you know, what they want for
23 fear of being shot, and I think the statute
24 provides for that.

25 You know, I actually thought about the

1 facts in this case, if he hadn't the gun, the
2 chances are the victim wouldn't have turned over
3 his watch and his cell phone. I don't know if he
4 would have just walked away from the PlayStation
5 since he had already given it to him. I think it
6 was the fear of being shot, which helps for --
7 certainly the armed robbery which is part of the
8 possession of a weapon during the commission of a
9 violent crime charge, so I just don't see how the
10 evidence supports this. It's either they believe
11 that it's him, that it's the defendant in this
12 case, and I mean it very clearly appears to be a
13 gun. I don't think anybody could have
14 misrepresented that. It's not like he had a cell
15 phone in his hand and, you know, someone saw what
16 they thought may be a flash of silver or black.
17 It's clearly a gun that's gun-shaped and looks
18 like one.

19 With that said, I'm going to deny your
20 motion.

21 MR. MCFADDEN: Understood, Judge.

22 THE COURT: Thank you.

23 MR. MCFADDEN: One additional matter
24 briefly --

25 THE COURT: Sure.

1 MR. MCFADDEN: -- I don't if -- when you
2 were down there, I don't know if you saw it --

3 THE COURT: I saw.

4 MR. MCFADDEN: -- there's very large
5 photographs. It's the first time I've seen them.
6 I think they're -- in talking with Miss Molina, I
7 think they're intended for use just with the jury.
8 Obviously, they're not in evidence and not to go
9 back to the jury room. Obviously, those haven't
10 been shown or any foundation laid through any
11 witnesses on the stand, so I think it's in the
12 Court's discretion whether or not those should be
13 able to be used as demonstrative.

14 MS. MOLINA: The pictures on those
15 posters are all pictures that are in evidence.

16 THE COURT: In evidence, right. They're
17 obviously not going back.

18 MS. MOLINA: They're not going back.

19 THE COURT: But as long as they're from
20 all the things --

21 MS. MOLINA: They are from pictures that
22 are in evidence.

23 THE COURT: Okay.

24 All right. And then the other thing
25 obviously would be, once you are done -- because

1 you're going to open in full. You didn't put anything
2 in. Correct, Mr. McFadden?

3 MR. MCFADDEN: No, ma'am.

4 THE COURT: So you need to make sure that
5 all this -- you know, you'll come get it,
6 Investigator Duncan. Just make sure it's all
7 turned around, and, you know, not glaring at the
8 jury while Mr. McFadden is doing his closing.

9 Is there anything further out here?

10 MS. MOLINA: No.

11 THE COURT: All right. So -- okay. Any
12 other objections, Mr. McFadden?

13 MR. MCFADDEN: That's all. Thank you.

14 THE COURT: No? All right.

15 Okay. I think all of our jury is here,
16 correct?

17 THE BAILIFF: Correct, ma'am.

18 THE COURT: I'm just going to step down
19 for about five minutes. And you-all ready to go?
20 We're good?

21 MS. MOLINA: Do you have a copy of the
22 jury charge that we can look over?

23 THE COURT: Not clean yet. Not clean
24 yet. Jamie is doing it right at this moment. She
25 can email you one. Do you want it emailed to you?

1 MS. MOLINA: Yes, please.

2 THE COURT: I will try to. She made -- I
3 literally just walked in and said put an ID in
4 there for me. I just think it's appropriate.

5 So, anyway, other than that, I'll be right
6 back and I'll have her email you one.

7 MS. MOLINA: Yes, thank you.

8 THE COURT: Sure.

9 (A break was taken from 10:10 a.m. to 10:16 a.m.)

10 THE BAILIFF: All rise.

11 THE COURT: Be seated.

12 All right. Jamie should have just emailed
13 you the jury charge. Is the State ready?

14 MS. MOLINA: State is ready.

15 THE COURT: Defense ready?

16 MR. MCFADDEN: Yes, ma'am.

17 THE COURT: All right. Let's bring the
18 jury in.

19 THE BAILIFF: Yes, Your Honor. Jury is
20 entering, Your Honor.

21 THE COURT: Thank you.

22 (Jury enters the courtroom at 10:16 a.m.)

23 THE BAILIFF: Jury is seated, Your
24 Honor.

25 THE COURT: Thank you. Good morning,

1 ladies and gentlemen.

2 JURY PANEL: Good morning.

3 THE COURT: At this time, we are going to
4 go ahead and hear the closing arguments from the
5 attorneys, and then I am going to charge you the
6 law that's applicable to this case.

7 So if you'll give Miss Molina your
8 attention, please.

9 MS. MOLINA: May it please the Court?

10 THE COURT: Yes.

11 CLOSING ARGUMENT

12 MS. MOLINA: You know what this is.
13 That's what the defendant said to Mr. Gecy on a
14 bright sunny Saturday afternoon at the Dale
15 Community Center when he pulled a gun from behind
16 his back and demanded his phone, wallet, and watch
17 after he already took the PlayStation, controller,
18 and games. You-all know what this is.

19 The defendant is charged with armed
20 robbery and possession of a weapon during a
21 violent crime. The elements of armed robbery,
22 first, the defendant took personal property from
23 Mr. Gecy from his person or in his presence. He
24 took those, and then he took his phone, wallet,
25 and watch.

1 Second, he carried away those items with
2 the intent to permanently deprive Mr. Gecy of
3 those items. You watched him play this game. You
4 watched him try to sell the cell phone. You saw
5 him tell people he had the watch. You saw him
6 actually sell the cell phone and receive \$145 for
7 it.

8 Third element, the defendant used
9 violence. Mr. Gecy was reasonably in fear of
10 violence. Mr. Gecy told you, I was just trying to
11 make it home to my family. Tried to stay calm.
12 Tried to keep it from escalating, comply, *Just*
13 *trying to make it home to my family.*

14 Fourth, the defendant was armed with a
15 deadly weapon when he committed this armed
16 robbery, or what the victim reasonably believed
17 based on words and actions and a representation of
18 a deadly weapon. That's armed robbery.

19 He's also charged with a possession of a
20 weapon during a violent crime. The possession of
21 a weapon is satisfied if there is a firearm or
22 what visually appears to be a firearm used in the
23 commission of a violent crime, and Judge Mullen
24 will tell you that armed robbery is designated a
25 violent crime in South Carolina.

1 How do we know the defendant is the one
2 who committed this armed robbery? The evidence is
3 overwhelming. You heard the 911 call from
4 Mr. Gecy. He provided a description. He provided
5 the Facebook. He gave the phone number. You saw
6 him identify the defendant the day after this
7 incident. You saw him identify him yesterday. On
8 a bright and sunny afternoon, they're standing
9 feet apart, you watched the video, Mr. Gecy was
10 sitting there watching him as he's putting this
11 stuff into his backpack. And then when he pulls
12 the gun out from behind his back, he's keeping his
13 eyes on him as he's getting into his truck.
14 Overwhelming.

15 You also heard from the defendant's
16 mother, and she identified the defendant as her
17 son. She also told you she's a minister. Her
18 husband is a pastor. Her son lives with her. And
19 then she recalled seeing surveillance pictures,
20 couldn't recall what her answer was to law
21 enforcement when she saw these pictures.

22 And then you heard from Investigator
23 Duncan. He did the search warrant. And in that
24 search warrant, they were looking for the clothes
25 that appeared to be in the surveillance video and

1 they were looking for what would look like that at
2 the house that his mother said he lived in in the
3 room with all of his stuff, and what did they
4 find? The hoodie. The hoodie that you see in the
5 surveillance, the shoes that you see in the
6 surveillance, and a very realistic looking BB gun.

7 You heard Investigator Duncan say, *No, I*
8 *can't be a hundred percent certain this is the BB*
9 *gun.* We can be certain that's a gun. And so
10 whether it was this BB gun or another gun, we know
11 he used a gun to make sure that he could get away
12 with the PlayStation and the phone and the
13 watch.

14 He also found his ID. Pictures of his
15 room -- and you-all will have all of this back in
16 the jury room with you. Pictures of his room, his
17 ID, social security card, with Q-tips and
18 toothpaste in the background. You can see it here
19 in this drawer. And then the cell phone that he
20 was sending to people on Facebook. *I got a tough*
21 *Galaxy, brand new, no scratches, no cracks.*
22 Notice Q-tips, toothpaste in the background.

23 During the search warrant, they also took
24 pictures of the living room. And then you-all saw
25 a video where he's playing the bright blue

1 PlayStation, Grand Theft Auto, laughing having a
2 good time. The second video, blue controller, the
3 one that's posted in his mother's living room.

4 We also know that this robbery took place
5 on March 19, 2022, and you saw a video of the
6 defendant March 19, 2022, in his living room when
7 he sent a message talking about this tough Galaxy.

8 Now, Mr. Gecy posted the PlayStation on
9 March 16th (sic). The robbery occurred on March
10 19th. The search warrant occurred on March 25th.
11 But in between the robbery and the search warrant,
12 defendant realized he needed to get rid of that
13 phone. Going straight to the machine. You-all
14 have Facebook messages and a voice message of him
15 saying, *It's gone*, March 24th.

16 And as part of ecoATM's process, they
17 take pictures of the person selling the phone.
18 They take pictures of the person's license, and
19 they verify the serial numbers and IMEI numbers
20 that the victim provided to law enforcement and
21 then ecoATM also registered. And the ID used to
22 sell the phone, same one found in defendant's
23 bedroom, is the defendant.

24 You also -- you heard about the line-up.
25 You have one of the hoodies. You heard

1 Investigator Duncan talk about a gray hoodie in
2 the laundry basket that was covering the gun. You
3 have the surveillance. He is wearing this Nike
4 hoodie, this gray hat, and a face covering when he
5 walks away. All of those items in the
6 surveillance pictured in his room. You have the
7 selfies that he was sending; hat, neck gator, gray
8 sweatshirt. And then you have what he was wearing
9 when he was arrested; hat, neck gator, gray
10 sweatshirt.

11 You-all know what this is. The defendant
12 wanted Mr. Gecy to know what it is, and now
13 you-all know what it is.

14 I told you it was the State's burden to
15 prove each and every element beyond a reasonable
16 doubt, and that's exactly what all of the evidence
17 that you-all have seen and heard has done. You
18 heard from the witnesses and Mr. Gecy, who was
19 there, saw him. You saw his Facebook before and
20 after, and he's trying to get rid of the items
21 when he's enjoying the items. You heard from
22 ecoATM and see the pictures from that. The
23 evidence is overwhelming.

24 And now it's time for your job, and I
25 told you your job was to sit and look at all of

1 the evidence. And now it's your duty to return a
2 true verdict, and you know what that is. The
3 defendant is guilty of armed robbery and
4 possession of a weapon during a violent crime.

5 THE COURT: Mr. McFadden, whenever you're
6 ready, sir.

7 MR. MCFADDEN: May it please the Court?

8 THE COURT: Yes, sir.

9 CLOSING ARGUMENT

10 MR. MCFADDEN: Opposing counsel,
11 Miss Molina, ladies and gentlemen, good morning.

12 I thanked you at the beginning, but I
13 thank you again for answering the call and serving
14 as jurors in this case. Thank you for your
15 patience and attention during the course of this
16 trial, as relatively brief as it were.

17 As Miss Molina mentioned, you know, I
18 request you-all to do your duty, you know, to
19 return a true verdict and to look at the evidence.
20 I mean, certainly, pursuant to your oath you must
21 do both of things. But I submit to you that your
22 purpose today is even more -- it could be
23 distilled down even further and is even more
24 singular, and that is this: To hold the State to
25 its burden, which she mentioned is beyond a

1 reasonable doubt. And the judge will instruct you
2 fully on the law, on the presumption of innocence,
3 the burden that the State bears, and the language
4 of the law here that you must apply to the facts
5 as you find them in this case.

6 But your role here in this criminal case
7 is quite simple, and that is to hold the State to
8 its burden, to establish each and every element of
9 this crime against my client by proof beyond a
10 reasonable doubt here. And the burden is the
11 highest, as I mentioned, because the stakes are
12 high. The State is seeking a violent -- at least
13 one violent criminal conviction against my client.

14 So, in order to determine whether or not
15 the State has met their burden, obviously, you
16 must consider the evidence here.

17 And so you heard in full now from
18 Miss Molina to what she thinks the evidence is and
19 what it shows. She told you that the evidence is
20 overwhelming. She said it twice. Overwhelming
21 evidence. Just one conclusion, and it's guilty.
22 Overwhelming here.

23 You know, well, okay, so what all did she
24 go through just now. This overwhelming evidence.
25 There was a lot of stuff up here. Let's see what

1 you-all heard, maybe you-all heard a 911 call.

2 There was surveillance footage. You have stacks
3 of photos, surveillance stills. You've got a ream
4 of Facebook messages flying between accounts,
5 audio snippets, video snippets. You had
6 Investigator Duncan testified to a painting and
7 executing search warrants, going into that home at
8 ■ Wimbee Trailer Court, collecting some pieces of
9 evidence. They hauled his mom in here to testify.
10 They brought in the Walmart cell phone kiosk to
11 testify. Overwhelming evidence. But is it?

12 Miss Molina mentioned twice during her
13 closing argument that the defendant pulled a gun.
14 In fact, that's the only word you heard to
15 describe what happened until half, three-quarters
16 of the way through this trial until
17 Investigator Duncan took the stand and you
18 actually saw what the State -- what law
19 enforcement has alleged to be the gun, sitting
20 right there. It's not a gun, is it? No.
21 Investigator Duncan testified that it is, in fact,
22 a Beeman, B or P17. A Beeman P17 BB gun.

23 So, you know, they're mentioning -- the
24 word "gun" was thrown around so many times, you
25 know, thinking that there's an absolute hand canon

1 at issue here. Well, no, instead, you got a BB
2 gun. You know, you got what the kids use in the
3 back yard to knock down tin cans. And for the
4 State to argue that, you know, either it was a BB
5 gun or it was a real gun, they should not have
6 their cake and eat it too. That BB gun would not
7 be sitting on that bar right there if they did not
8 think that that was what was at issue. If that's
9 not what they thought the gun was here.

10 Investigator Duncan himself told you, he
11 said that he thought it was consistent with what
12 was in the surveillance video, the actual only
13 alleged, you know, footage of the incident. He
14 said he watched the footage multiple times. He
15 studied it real hard.

16 So it's the State's position that what was
17 used here, the thing at issue, it's not a gun. It's
18 not a firearm. It's a BB gun.

19 Folks, there was no testimony whatsoever
20 from Investigator Duncan, or any other witness,
21 that that item right there appeared altered or
22 changed in any way, that it, in any way, was
23 manipulated to make it look like anything other
24 than what it is; a Beeman P17 BB gun. Folks,
25 there was no testimony that it was even operable.

1 That it even worked.

2 So, folks, I submit -- the State
3 picked -- she previewed the law on the charge that
4 they sought here, which is armed robbery. The
5 State chose that charge, and now they're tasked
6 with establishing that to you by proof beyond a
7 reasonable doubt.

8 So, ladies and gentlemen, when you retire
9 to your courtroom -- your deliberation room,
10 sorry, and you, pursuant to your role and to your
11 duty as jurors in this case, rigorously examine
12 all the evidence with an eye always towards
13 holding the State accountable to its burden, I
14 submit to you, when you put those two things
15 together, the alleged evidence here and the
16 instructions on the law as Judge Mullen provides
17 it to you, that, instead of the overwhelming an
18 inescapable conclusion of guilty, you will instead
19 find reasonable doubt in this case. And that's
20 all it takes, reasonable doubt on one element of
21 the charge.

22 Now, when you really study it, folks,
23 respectfully, I request on Mr. Robinson's behalf,
24 that you return a verdict of not guilty on both
25 counts. Thank you.

1 JURY CHARGE

2 THE COURT: Thank you. Mr. Foreperson,
3 members of the jury, you've followed very
4 patiently and listened very attentively to the
5 presentation of the evidence in this case, and I
6 want to thank you for that. It now becomes the
7 duty of the trial judge and constitution of this
8 state to charge and instruct you on the law that's
9 applicable in this case, and it's your duty as
10 jurors to accept and apply the law as I will now
11 state it to you. You must determine the effect,
12 the value, the weight, and the truth of the
13 evidence. Both the State of South Carolina and
14 the defendant, Mr. Robinson, have a right to
15 expect that you will carefully consider and
16 evaluate the evidence and apply the law of the
17 case to the evidence. And by doing that, both the
18 State and Mr. Robinson will receive a fair and
19 impartial trial in this matter.

20 Now, the State of South Carolina by the
21 bills of indictment in this case charges the
22 defendant, Jonathan Robinson, with the offenses of
23 armed robbery and possession of a weapon during
24 the commission of a violent crime.

25 Now, I remind you that the fact that the

1 defendant was arrested, charged, and indicted in
2 this case is not evidence in this case and cannot
3 be considered by you as evidence of guilt in this
4 case, nor does it create any presumption or
5 inference of guilt. An indictment is simply the
6 formal written instrument which contains the
7 charge that's made against the defendant. It's
8 the formal document by which the case is brought
9 into this court.

10 The defendant, Mr. Robinson, has pled not
11 guilty to these indictments and that plea puts the
12 burden on State to prove the defendant guilty. A
13 person charged with committing a criminal offense
14 in South Carolina is never required to prove
15 themselves innocent. I'm charging that it's an
16 important rule of law that a defendant in a
17 criminal trial, no matter what the seriousness of
18 the charges may be, will always be presumed
19 innocent of the crime or crimes for which an
20 indictment is issued unless guilt has been proven
21 by evidence satisfying you, the jury, of that
22 guilt beyond a reasonable doubt.

23 This presumption of innocence does not
24 end when you begin your deliberations, but it
25 accompanies the defendant throughout the trial

1 until you reach a verdict of guilt based on
2 evidence satisfying you of that guilt beyond a
3 reasonable doubt.

4 The presumption of innocence is like a
5 robe of righteousness that's placed about the
6 shoulders of the defendant and it remains with the
7 defendant until it has been stripped away from the
8 defendant by evidence satisfying you of the
9 defendant's guilt beyond a reasonable doubt.

10 The presumption of innocence is not a
11 mere legal theory. It's not just a legal phrase
12 we use. It is a substantial right to which every
13 defendant is entitled unless you, the jury, are
14 satisfied from the evidence of the defendant's
15 guilt beyond a reasonable doubt.

16 So what is a reasonable doubt in the law?
17 A reasonable doubt is the kind of doubt that would
18 cause a reasonable person to hesitate to act in
19 the most important of their decisions. The State
20 has the burden of proving the defendant guilty
21 beyond a reasonable doubt and the term "reasonable
22 doubt" must be given its plain and ordinary
23 meaning. However, again, to the extent that I may
24 define it for you, a reasonable doubt is the kind
25 of doubt that would cause a reasonable person to

1 hesitate to act in the most important of their
2 personal decisions.

3 The defendant is entitled to every
4 reasonable doubt arising in this case. If upon an
5 issue of fact essential to a conviction you have a
6 reasonable doubt as to how that issue should be
7 resolved, you must resolve that reasonable doubt
8 in favor of the defendant.

9 Now, some of you may have served as
10 jurors in civil cases where you were told it was
11 only necessary to prove that a fact is more likely
12 true than not true, such as what we call the
13 greater weight or the preponderance of the
14 evidence. In criminal cases, the State's proof
15 must be more powerful than that. It must be
16 beyond a reasonable doubt. Suspicion, no matter
17 how strong, is insufficient to convict a person
18 charged with a crime. If the facts and
19 circumstances presented may seem suspicious and a
20 defendant's guilt may seem probable, this is not
21 sufficient in the law to convict. Proof beyond a
22 reasonable doubt is proof that leaves you firmly
23 convinced of the defendant's guilt.

24 Now, there are very few things in this
25 world that we know with absolute certainty. And

1 in criminal cases, the law does not require proof
2 that overcomes every possible doubt. If, based on
3 your consideration of the evidence, you are firmly
4 convinced the defendant is guilty of the crimes
5 charged, you must find the defendant guilty. If,
6 on the other hand, you think there is a real
7 possibility that the defendant is not guilty, you
8 must give the defendant the benefit of the doubt
9 and find him not guilty.

10 Now, I remind you that during this trial,
11 you and I have certain duties to perform. As the
12 trial judge, it's my responsibility to preside
13 over the trial of this case and I also have the
14 duty to rule on the admissibility of evidence
15 that's offered during the trial. You are to
16 consider only the competent evidence before you.
17 You are to consider only the testimony which has
18 been presented from the witness stand and any
19 exhibits which were made a part of the record in
20 this case.

21 I have the additional duty to charge you
22 the law that's applicable to this case. As the
23 presiding judge, I am the sole judge of the law
24 and it is your duty as jurors to accept and apply
25 the law as I will now state it to you. If you

1 already have any idea as to what the law is or
2 what you think the law ought to be and it does not
3 agree with what I now tell you it is, you must
4 abandon this idea because you are sworn to accept
5 the law and apply the law exactly as I state it to
6 you.

7 In every case tried in this court before
8 a jury, the jury becomes the sole and exclusive
9 judge of the facts in a case. A trial judge
10 cannot intimate, state, comment on, or make any
11 statement to a trial jury about the facts in a
12 case. And since you, the jury, are the sole judge
13 of the facts in this case, you not to infer from
14 what I said during the progress of this trial and
15 ruling upon the admissibility of evidence or
16 otherwise, or anything that I say now during the
17 course of this instruction to you that I have an
18 opinion about the facts in this case. The law
19 does not allow me to have an opinion about the
20 facts in this case. This is a matter solely for
21 you the jury to determine.

22 Now, there are two types of evidence
23 which are generally presented during a trial;
24 direct evidence and circumstantial evidence.
25 Direct evidence directly proves the existence of a

1 fact and does not require deduction.

2 Circumstantial evidence is proof of a chain of
3 facts and circumstances indicating the existence
4 of a fact. Crimes may be proven by circumstantial
5 evidence. The law makes no distinction between
6 the weight or value to be given to either direct
7 or circumstantial evidence.

8 However, to the extent that the State
9 relies on circumstantial evidence, all of the
10 circumstances must be consistent with each other
11 and when taken together point conclusively to the
12 guilt of the accused beyond a reasonable doubt.
13 If these circumstances merely portray the
14 defendant's behavior as suspicious, the proof has
15 failed. The State has the burden of proving the
16 defendant guilty beyond a reasonable doubt and
17 this burden rests with the State regardless of
18 whether the State relies on direct evidence,
19 circumstantial evidence, or some combination of
20 the two.

21 Necessarily, you must determine the
22 credibility of witnesses who have testified in
23 this case, and credibility simply means
24 believability. It's your duty as jurors to
25 analyze and to evaluate the evidence and determine

1 which evidence convinces you have of its truth.

2 In determining the believability of witnesses who

3 have testified in this case, you may believe one

4 witness over several witnesses or several

5 witnesses over one witness. You may believe a

6 part of the testimony of a witness and reject the

7 remaining part of the testimony of that same

8 witness. You may believe the testimony of a

9 witness in its entirety or reject the testimony of

10 a witness in its entirety, and you may consider

11 whether any witnesses exhibited to you any

12 interest bias, prejudice, or other motive in this

13 case, and you may also consider the appearance and

14 the manner of a witness while on the witness

15 stand.

16 Now, I instruct you and emphasize that

17 the fact that the defendant did not testify is not

18 a factor to be considered by you in any way in

19 your deliberation and in your consideration on the

20 question of the guilt or the innocence of the

21 defendant. It must not be considered by you in

22 any manner whatsoever.

23 A defendant has the constitutional right

24 to remain silent, and the assertion of this right

25 must not be considered by you in your

1 deliberations. I repeat, under your oath, you are
2 to draw no conclusion whatsoever from the fact
3 that the defendant in this case did not testify.
4 The fact that the defendant did not testify should
5 not even be discussed in the jury room. The
6 burden of proof is on the State. The defendant is
7 not required to prove his innocence and the burden
8 of proof remains on the State to prove guilt
9 beyond a reasonable doubt.

10 Now, an issue in this case is the
11 identification of the defendant as the person who
12 committed the crimes charged. The State has the
13 burden of proving identity beyond a reasonable
14 doubt. You must be satisfied beyond a reasonable
15 doubt of the accuracy of the identification of the
16 defendant before you may convict the defendant.
17 Identification testimony is an expression of
18 belief or impression by a witness. You must
19 determine the accuracy of the identification of
20 the defendant.

21 You must consider the believability of
22 each identification witness in the same way as any
23 other witness. You may consider whether the
24 witness had an adequate opportunity to observe the
25 offender at the time of the offense. This would

1 be effected by things like how long or short a
2 time was available, how far or close the witness
3 was, the lighting conditions, and whether the
4 witness had the chance to see or know the person
5 in the past.

6 Once again, I instruct you, the burden of
7 proof on the State extends to every element of the
8 crimes charged, and this specifically includes the
9 burden of proving beyond a reasonable doubt the
10 identity of the defendant as the person who
11 committed the crimes. If, after examining the
12 testimony, you have a reasonable doubt as to the
13 accuracy of the identification, you must find the
14 defendant not guilty.

15 Now, in this case, the defendant is
16 charged with two offenses and the first one the
17 defendant is charged with is armed robbery. In
18 order to prove armed robbery, the State must show
19 that the defendant committed robbery while armed
20 with a pistol, dirt, slingshot, metal knuckles,
21 razor, or other deadly weapon, or while alleging,
22 either by action or words, he was armed while
23 using a representation of a deadly weapon, or any
24 object which a person present during the
25 commission of the robbery reasonably believed to

1 be a deadly weapon.

2 Now, the defendant is also charged with
3 possession of a weapon during the commission of or
4 intent to commit a violent crime. To prove this
5 charge, the State must prove beyond a reasonable
6 doubt the defendant was in possession of a firearm
7 or visibly displayed what appeared to be a firearm
8 during the commission of a violent crime. A
9 firearm means any machine gun, automatic rifle,
10 revolver, pistol, or any weapon which will is
11 designed to or maybe readily converted to expel a
12 projectile.

13 Now, in order to find the defendant
14 guilty of possession of a weapon during the
15 commission of a violent crime, you must first find
16 the defendant guilty of either committing a
17 violent crime or attempting to commit a violent
18 crime.

19 Ladies and gentlemen, I charge you that
20 it's the law of this state that armed robbery is a
21 violent crime. The State then must also prove
22 beyond a reasonable doubt that the weapon further
23 advanced or helped in the commission of the
24 violent crime.

25 Mr. Foreperson, members of the jury, as

1 you retire to begin your deliberations in this
2 case, I wish to express the hope that you are
3 mindful of the responsibility you have here today.
4 You're not called upon very often to serve as
5 jurors and the proper performance of that duty
6 requires each of you to reach the height of
7 freeing your mind of all improper influences.

8 So please don't get the idea that I'm
9 trying intimate to you how I think you should
10 decide this case because I've already told you,
11 under the laws of the State of South Carolina, you
12 the jury are the sole judge of all facts in this
13 case and it would be highly improper for me to
14 influence you in your performance of that duty.

15 But, ladies and gentlemen, as the
16 presiding officer of this court, I am vitally
17 concerned that whatever verdict you reach will be
18 the result of you going back into your jury room
19 and confining your consideration to the evidence
20 and the law that you heard here in this courtroom
21 weighing it fairly and impartially, as I have
22 every confidence you will.

23 Mr. Foreperson, I remind you that your
24 verdict must be unanimous. It must be the verdict
25 of all 12 jurors. And to that end, you will have

1 a verdict form along with the jury charge back in
2 your jury room that states the case caption, which
3 is the State of South Carolina vs. Jonathan
4 Robinson and it has two questions. The first
5 portion says, "As to indictment number
6 2022-GS-7-00529, the charge of armed robbery, we,
7 the jury, unanimously find the defendant, Jonathan
8 Jabreal Robinson," and either it says you check
9 not guilty or guilty.

10 Ladies and gentlemen, on that first
11 question, if you find the defendant not guilty of
12 the armed robbery, you will stop your
13 deliberations if you have finished your
14 deliberations and would not go on to question
15 number two.

16 If you did find Mr. Robinson guilty of
17 the first question, you would then move on to the
18 second question. And the question says, "As to
19 indictment number 2022-GS-07-00530, the charge of
20 possession of a weapon during the commission of a
21 violent crime, we, the jury, unanimously find the
22 defendant, Jonathan Jabreal Robinson," and again
23 not guilty and guilty and you would check one if
24 you get to question number 2.

25 Mr. Foreperson, after that, there is a

1 place for you to sign on the verdict form and also
2 date the form.

3 Sir, when you have reached a unanimous
4 jury verdict, I need you to knock on your jury
5 room door and we will accept you back into the
6 courtroom to take your verdict.

7 Ladies and gentlemen, also for a couple
8 of other housekeeping matters, all the evidence
9 that was entered into the trial of this case as
10 actual evidence will be back in the jury room with
11 you. So I will have that with you.

12 Additionally, you will have the verdict
13 form as well as the charge on the law that I just
14 read to you. All right? When that's sent back to
15 you, that's going to be your signal to begin your
16 deliberations. I do want you to know that there
17 were some exhibits that were shown just as
18 blow-ups in this case. Those are not to go back
19 in the jury room. They are simply just for
20 demonstrative purposes and they are not evidence.
21 You will have everything back there that was
22 entered into evidence.

23 So, ladies and gentlemen, I will
24 sometimes have a jury ask me if they can see
25 something in particular, if you weren't presented

1 it in evidence, you're not entitled to it. My
2 only note back is going to be, *No, it wasn't*
3 *entered into evidence.*

4 Additionally, even though my court
5 reporter, Sharon, has been taking down everything
6 everyone said during the trial of this case, there
7 is not a printed the transcript of the trial
8 testimony or the trial. If there is certain
9 testimony you wish to be heard, what I can do is
10 bring you back and replay that witness's
11 testimony. The only thing I need to make sure you
12 understand is that if you ask me for a specific
13 witness's testimony, I'm required to play that
14 witness's entire testimony. That would be the
15 direct examination, the cross-examination, any
16 redirect, any recross. All right?

17 So, ladies and gentlemen, this is the
18 very last time I'm going to say this. I'm going
19 to send you back to your jury room and I'm going
20 to tell you not to begin deliberations. I'm going
21 to ask these attorneys if there's anything further
22 on the law that they want me to charge you. If
23 there is, I'll bring you back in here and I can
24 charge you further.

25 If not, again, we're going to send the

1 verdict form, the jury charge, and all of the
2 evidence on a cart back to your jury room, or a
3 box. I'm not sure how we're taking it back there.
4 But that would be your signal to begin your
5 deliberations. All right?

6 And, again, when you've reached a
7 verdict, knock on the door. Additionally,
8 Mr. Foreperson, if there's anything you need from
9 me, simply put it in a note, sign your name on it,
10 and, if you can, put the date and time on it and
11 send to the bailiff and they're going to bring it
12 to me and I'll address it.

13 Additionally, I know we showed some
14 things to you on the screen. If there's anything
15 you need played back, because I do not believe --
16 back in that jury room you're not going to have
17 any type of screen to replay it. If you need to
18 see it, just tell me specifically what you want to
19 see and I'll bring you back in here and we'll play
20 it for you. Okay?

21 Ladies and gentlemen, I appreciate your
22 attention. Go back to your jury room, get a cup
23 of coffee, and then when you receive the law and
24 the evidence you can begin.

25 Thank you.

1 (Jury exits the courtroom at 10:55 a.m.)

2 THE BAILIFF: Your Honor, the jury is
3 clear.

4 THE COURT: Is the door shut?

5 THE BAILIFF: Yes.

6 THE COURT: Any exceptions or additions
7 to the charge from the State?

8 MS. MOLINA: Not to the charges. The
9 only thing you didn't do is your usual "no
10 inference."

11 THE COURT: Oh, I forgot.

12 MS. MOLINA: But I don't know --

13 THE COURT: Noted for the record. I
14 don't think it matters.

15 MS. MOLINA: I don't know that you need
16 to bring them back.

17 MR. MCFADDEN: Nothing from me, Judge, as
18 to the charge.

19 I would request that if a printed copy is
20 going back with them, that each juror gets a
21 printed copy.

22 THE COURT: No. It's too much paper.
23 So, no. Sorry.

24 MR. MCFADDEN: Just to prevent one person
25 from being the holder of the law back there, but I

1 understand.

2 THE COURT: That's all right. They
3 already heard it once. They should be fine. They
4 should all be able to look at it.

5 Okay. You guys have gone through the
6 evidence, have you, to make sure it's all there.
7 I don't know if it's sitting right there. Is that
8 part of it as well?

9 MS. MOLINA: Yes.

10 THE COURT: Okay, you need to go through
11 it.

12 (Off the record.)

13 THE COURT: Marshall, you want to bring
14 the two alternates?

15 THE BAILIFF: Yes, ma'am. And I will
16 instruct the jury to begin deliberations.

17 THE COURT: Yes, sir.

18 (Deliberations begin at 11:05 a.m.)

19 (Alternate jurors enter the courtroom.)

20 THE COURT: Gentlemen, thank you so much
21 for serving as jurors. Obviously, I didn't lose
22 anyone this time. I'm going to go ahead and
23 release you. You are permitted to discuss this
24 case at that point. There's nothing wrong with
25 that. Sometimes the attorneys or investigator

1 will want to ask you what your thoughts are. If
2 you're willing to speak with them, certainly you
3 can. If you don't, just politely say no thank you
4 and I assure you they will leave you alone. All
5 right?

6 You also earned your exemption for the
7 next three years. And, as far as other trials,
8 everything else has gone away. So, for this week,
9 I got a few matters I'm doing today and tomorrow.
10 And other than that, we really appreciate you
11 being here.

12 ALTERNATE JUROR: Awesome. Thank you.

13 So you-all are excused at this point.

14 Additionally, if you're interested in
15 what the verdict is, you can either call to the
16 clerk of court's office and ask tomorrow, but I
17 will tell you, typically, if it's a conviction,
18 it's usually in the newspaper. If it's not a
19 conviction, it's usually not in the newspaper. So
20 that's just the way it works.

21 So, again, thank you, gentlemen. Thank
22 you.

23 ALTERNATE JUROR: Thank you.

24 (Alternates excused at 11:06 a.m.)

25 THE COURT: So I guess we'll be at ease

1 in this case.

2 Miss Molina, can you get me a rap sheet
3 on Mr. Robinson just on the chance that we need to
4 get to a sentencing?

5 MS. MOLINA: Yes, ma'am.

6 (A break was taken from 11:07 a.m. to 11:25 a.m.)

7 THE BAILIFF: All rise.

8 THE COURT: I understand the jury has
9 reached a verdict. Do we need Mr. Robinson?

10 MR. MCFADDEN: Yes.

11 THE COURT: Thank you. Let's bring the
12 jury in.

13 THE BAILIFF: The jury is entering, Your
14 Honor.

15 THE COURT: Thank you, Norman.

16 (Jury enters the courtroom at 11:28 a.m.)

17 THE BAILIFF: The jury is seated, Your
18 Honor.

19 THE COURT: Thank you.

20 Mr. Foreperson, I understand the jury has
21 reached a verdict, sir?

22 FOREPERSON: Yes, ma'am.

23 THE COURT: Would you please hand it to
24 the bailiff.

25 Can you please publish it?

1 LAW CLERK: State of South Carolina,
2 County of Beaufort vs. Jonathan Jabreal Robinson,
3 as to indictment number 2022-GS-07-00529, the
4 charge of armed robbery, we, the jury, unanimously
5 find the defendant Jonathan Jabreal Robinson
6 guilty.

7 As to indictment number 2022-GS-07-00530,
8 the charge of possession of a weapon during the
9 commission of a violent crime, we, the jury,
10 unanimously find the defendant Jonathan Jabreal
11 Robinson guilty.

12 I certify that this is the unanimous
13 decision of the jury, signed by the foreperson.

14 THE COURT: Thank you, sir. You may be
15 seated. I appreciate it.

16 Ladies and gentlemen, I appreciate you
17 bringing this verdict back. Now, what we are
18 going to do is this: Each of your numbers are
19 going to be called. I want you to look at your
20 number, just to refresh yourself. When your
21 number is called, I need you to stand, and the two
22 questions that are going to be asked, it's going
23 to be, "Is this your verdict," yes or no. "Is
24 this still your verdict," yes or no. All right?

25 So, again, just stand when your number is

1 called and just make sure you look at your number.

2 Okay?

3 THE CLERK: Juror number 19, is this your
4 verdict?

5 JUROR 19: (Nods head up and down.)

6 THE CLERK: Is it still your verdict?

7 JUROR 19: (Nods head up and down.)

8 THE COURT: Sir, you to verbally say yes
9 for the record.

10 JUROR 19: Yes.

11 THE COURT: You need to ask him again,
12 Donna?

13 THE CLERK: Is it still your verdict?

14 JUROR 19: Yes.

15 THE CLERK: Is it still your verdict?

16 JUROR 19: Yes.

17 THE COURT: Okay. I'm going to ask one
18 more time, because I feel like you asked the same
19 question twice.

20 Sir, just rise. And I may have misheard
21 it. Sir, is this your verdict?

22 JUROR 19: Yes.

23 THE COURT: Is it still your verdict?

24 JUROR 19: Yes.

25 THE COURT: Thank you. You may be seated.

1 I just wanted to be clear, sorry.

2 THE CLERK: Juror number 333, is this
3 your verdict?

4 JUROR 333: Yes.

5 THE CLERK: Is it still your verdict?

6 JUROR 333: Yes.

7 THE CLERK: Thank you.

8 Juror number 126, is this your verdict?

9 JUROR 165: Yes.

10 THE CLERK: Is it still your verdict?

11 JUROR 126: Yes, ma'am.

12 THE CLERK: Juror number 165, is this
13 your verdict?

14 JUROR 165: Yes, ma'am.

15 THE CLERK: Is it still your verdict?

16 JUROR 165: Yes, ma'am.

17 THE CLERK: Juror number 18, is this your
18 verdict?

19 JUROR 18: Yes.

20 THE CLERK: Is it still your verdict?

21 JUROR 18: Yes, it is.

22 THE CLERK: Juror number 150, is this
23 your verdict?

24 JUROR 150: Yes.

25 THE CLERK: Is it still your verdict?

1 JUROR 150: Yes.

2 THE CLERK: Thank you.

3 Jury number 140, is this your verdict?

4 JUROR 140: It is.

5 THE CLERK: Is it still your verdict?

6 JUROR 140: Yes, it is.

7 THE CLERK: Juror number 312, is this
8 your verdict?

9 JUROR 312: Yes.

10 THE CLERK: Is it still your verdict?

11 JUROR 312: Yes.

12 THE CLERK: Juror number 116, is this
13 your verdict?

14 JUROR 116: Yes, ma'am.

15 THE CLERK: Is it still your verdict?

16 JUROR 116: Yes, ma'am.

17 THE CLERK: Jury number 212, is this your
18 verdict?

19 JUROR 212: Yes.

20 THE CLERK: Is it still your verdict?

21 JUROR 212: Yes, ma'am.

22 THE CLERK: Thank you.

23 Juror number 63, is this your verdict?

24 JUROR 88: Yes.

25 THE CLERK: Is it still your verdict?

1 JUROR 88: Yes.

2 THE CLERK: Number 88, is this your
3 verdict?

4 JUROR 88: Yes.

5 THE CLERK: Is it still your verdict?

6 JUROR 88: Yes.

7 THE CLERK: Is there anybody I missed?

8 THE COURT: No.

9 THE CLERK: All right. Thank you.

10 THE COURT: Thank you, ladies and
11 gentlemen. So you have resolved this matter for
12 us. What I have left to do in this case is
13 sentence Mr. Robinson, which I'm going to do
14 directly right now. You are welcome to stay for
15 that or you are welcome to excuse yourself for
16 that. Either way. As I always tell the jury,
17 your job is to reach a verdict, obviously, of
18 guilt or not guilty, and then it is my job to
19 sentence. That is what I do. So I certainly take
20 that job.

21 And with that said, ladies and gentlemen,
22 you also have earned your exemption for the next
23 three years and I'm going to go ahead and excuse
24 you for the day if you would like to be excused.
25 I will tell you that you are permitted when you go

1 home now to discuss this case. There's nothing
2 wrong with that. And sometimes the attorneys or
3 investigator might want to ask you what your
4 thoughts are about certain testimony or something,
5 you are allowed to talk to them if you choose to.
6 But, of course, if anyone approaches you and you
7 have no interest in talking to them, just politely
8 say no thank you.

9 If for any reason anyone were to persist,
10 I just need you to call up to the clerk's office
11 or come back to the courthouse and tell me and I
12 will take care of them. All right? But, of
13 course, you're not required to talk to anybody.

14 Ladies and gentlemen, at this time, what
15 I'm going to do is, if you would like to stay and
16 watch the sentencing, I'm going to have you just
17 keep your seats right where you are. But if you
18 would like to go ahead and be excused and be
19 excused for the remainder of the week and be done,
20 we're going to take you out right now. Okay?

21 Again, thank you-all very much. We
22 appreciate it.

23 (Jury is excused at 11:34 a.m.)

24 THE COURT: All right. It takes just a
25 moment for the solicitor to print their sentencing

1 sheets that they're going to give me.

2 Mr. McFadden.

3 MR. MCFADDEN: Briefly just a post-trial
4 motion.

5 THE COURT: Yes.

6 MR. MCFADDEN: I would like make a motion
7 for a new trial based on the erroneously
8 introduced evidence that I objected to and that
9 Your Honor heard a motion in limine to exclude in
10 pretrial. That's specifically stemming from the
11 facial recognition technology and law
12 enforcement's use of that, and law enforcement's
13 use of that service LeadsOnline, as well as any
14 other evidence admitted over my objection during
15 the trial. Thank you.

16 THE COURT: All right. Well,
17 respectfully, based on my earlier rulings, I stand
18 on them. You've noted and preserved them for the
19 record, sir, for any appellate purposes.

20 MR. MCFADDEN: Thank you.

21 THE COURT: Yes, sir.

22 Do you have the sentencing sheets?

23 MS. MOLINA: They are coming up from the
24 printer.

25 THE COURT: Okay.

1 While they are coming up, Mr. McFadden,
2 do you want to tell me about your client
3 Mr. Robinson?

4 MR. MCFADDEN: Certainly, Judge. I'll
5 keep it very brief. Jonathan is 30 years old, and
6 he's been in jail 794 days as of today. And
7 the -- where this case was at, you know, right
8 ahead of this trial, last week, is, he was at --
9 we were at 12 to 15. He would have plead last
10 week, Thursday or Friday, 12 to 15. The State's
11 recommendation since the very beginning has been
12 19 to 21 and would -- could not budge off of that.
13 I understand they don't have to make any sort of
14 plea offer recommendation period, but that's -- he
15 was willing to except responsibility and plea as
16 charged to that range.

17 So, respectfully, you know, we would
18 request you to consider a sentence in that range
19 in that he was prepared to plead guilty but we
20 couldn't reach a number, Judge.

21 THE COURT: Okay. Well, I see, Mr.
22 McFadden, on his prior record that he has a prior
23 conviction in 2010 for armed robbery as well that
24 was plead down to a strong-armed robbery, and I
25 see that he did a ten-year sentence on that.

1 Also we need to make sure that our
2 foreperson signs the indictments.

3 THE CLERK: He has.

4 THE COURT: I has already. I appreciate
5 that.

6 Is there anything, Mr. Robinson, you
7 would like to say, sir?

8 MR. ROBINSON: No, ma'am.

9 THE COURT: Is there anyone that wants to
10 speak on his behalf.

11 MR. MCFADDEN: He does have his cousin
12 here, I think, in support, but I don't think he
13 wishes to speak.

14 THE COURT: Thank you.

15 All right. Mr. Robinson, Mr. McFadden,
16 would you please rise?

17 All right. Under indictment
18 2022-GS-7-00529 for armed robbery, the sentence of
19 this Court is you be committed to the department
20 of corrections for a period of 22 years.

21 On indictment 2022-GS-7-00530 for
22 possession of a weapon during the commission of a
23 violent crime, the sentence is five years.

24 Those are to run concurrent to each
25 other, and I'm giving you credit for 794 days.

1 CERTIFICATE OF REPORTER

2
3 I, SHARON G. HARDOON, Official Circuit
4 Court Reporter, III for the State of South Carolina at
5 Large, do hereby certify that the foregoing is a true,
6 accurate and complete Transcript of Record of the
7 proceedings had and evidence introduced in the trial
8 of the captioned case, relative to appeal, in General
9 Sessions for Beaufort County, South Carolina.

10
11 I do further certify that I am neither kin,
12 counsel, nor interest to any party hereto.
13

14
15 December 12, 2024

16
17 

18
19 _____
20 Sharon G. Hardoon, CSR
21 Official Circuit Court Reporter, III
22
23
24
25

WITNESSES

Beaufort County Sheriff's Office

*T. CALHOUN***ARREST WARRANT NUMBER**

2022A0710400077

ACTION OF GRAND JURY*[Signature]*
Foreperson of Grand Jury

Date: OCT 12 2023

VERDICT*[Signature]*
Foreperson of Petit JuryDate:
INDICT

DOCKET NO. 2022GS0700529

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

October Term 2023

THE STATE

vs.

JONATHAN JABREAL ROBINSON**Indictment For****Armed Robbery**

SC Code: 16-11-330(A)

CDR Code: 0139

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF BEAUFORT)

2022GS0700529

At a Court of General Sessions, convened on October 12, 2023, the Grand Jurors of Beaufort County present upon their oath:

Armed Robbery

That in Beaufort County, South Carolina, on or about March 19, 2022, the Defendant, JONATHAN JABREAL ROBINSON, did commit robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, all in violation of Section 16-11-330(A), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

Beaufort County Sheriff's Office

*T. CALHOUN***ARREST WARRANT NUMBER**

2022A0710400078

ACTION OF GRAND JURY*Alvin R. Allen*
Foreperson of Grand Jury

Date: OCT 1 2023

VERDICT*GUILTY**JUNE 5, 2024*

Foreperson of Petit Jury

Date:
INDICT

DOCKET NO. 2022GS0700530

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

October Term 2023

THE STATE

vs.

JONATHAN JABREAL ROBINSON**Indictment For****Possession of Weapon During
Violent Crime**

SC Code: 16-23-490

CDR Code: 0549

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF BEAUFORT)

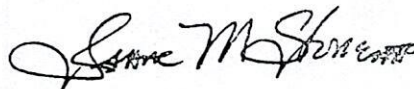
2022GS0700530

At a Court of General Sessions, convened on October 12, 2023, the Grand Jurors of Beaufort County present upon their oath:

Possession of Weapon During Violent Crime

That in Beaufort County, South Carolina, on or about March 19, 2022, the Defendant, JONATHAN JABREAL ROBINSON, did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime and JONATHAN JABREAL ROBINSON was convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, all in violation of Section 16-23-490, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

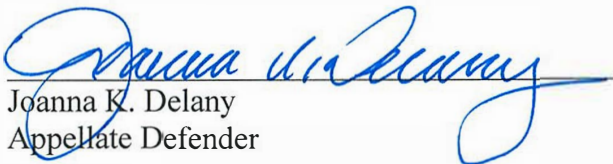
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Oct 02 2025

SC Court of Appeals


Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 2nd day of October, 2025.

RECEIVED

Oct 02 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

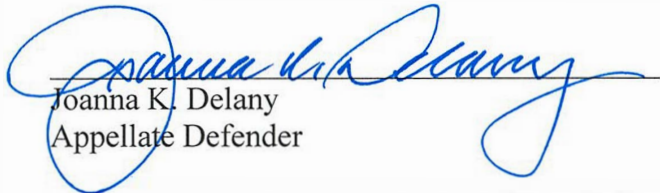
JONATHAN JABREAL ROBINSON, III,

APPELLANT.

APPELLATE CASE NO. 2024-000994

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Andrew D. Powell, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 2nd day of October, 2025.


Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT